NEVADA STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF CHARGES AND COMPLAINT AGAINST

MARYANNE DEFOREST PHILLIPS, M.D.

ADJUDICATION

Case No: 21-10032-1

Date: June 9, 2023

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BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **MARYANNE DEFOREST PHILLIPS, M.D., Respondent.**	**Case No. 21-10032-1** FILED SEP 20 2022 NEVADA STATE BOARD OF MEDICAL EXAMINERS By:

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Nevada State Board of Medical Examiners
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SECOND AMENDED COMPLAINT

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

1. Respondent was at all times relevant to this Complaint, a medical doctor holding an active license to practice medicine in the State of Nevada (License No. 7635). Respondent was originally licensed by the Board on December 21, 1995.

2. Respondent does not have a license to prescribe controlled substances issued by the Nevada State Board of Pharmacy (NSBOP).

3. Respondent is not registered with the U.S. Drug Enforcement Agency (DEA) to prescribe controlled substances.

4. Vida Spa LLC, is a Nevada limited liability company, formed on July 22, 2016, and managed by Gisselle Platfoot, also doing business as "Vida Spa" and "Vita Medical Spa Las

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[1] The Investigative Committee of the Nevada State Board of Medical Examiners at the time the Summary Suspension in this matter was authorized, consisted of Board members Victor M. Muro, M.D., Chairman, Weldon Havins, M.D., J.D., and Ms. Maggie Arias-Petrel.

Vegas." Vida Spa is a self-described "medical spa" located 3225 S. Rainbow Blvd #107 and/or #206, Las Vegas, Nevada 89146. (Collectively, "Vida Spa").

5. Vida Spa is, and was at all times relevant to this complaint, licensed in Clark County, Nevada, under Clark County Business License No. 2003447.081-172, under the business category of "Cosmetology Establishment - Other Services." The owners listed under this license are Art Matrix, Inc. and Gisselle Platfoot.

6. Gisselle Platfoot, Manager of Vida Spa, did not, at all times relevant to this Complaint, hold a license to practice any healing art as a "provider of health care," defined in NRS 629.031, from any occupational licensing board in the State of Nevada.

7. Vida Spa is "a facility that provides health care, other than a medical facility". *See* NRS 449.442. Neither Respondent, Vida Spa, nor Gisselle Platfoot held, or currently holds, the requisite permit, pursuant to NRS 449.442, to perform general anesthesia, conscious sedation or deep sedation at Vida Spa. Additionally, neither Respondent, Vida Spa, nor Gisselle Platfoot hold a current accreditation by a nationally recognized organization approved by the Nevada State Board of Health (BOH) to perform general anesthesia, conscious sedation or deep sedation at Vida Spa.

8. On March 24, 2021, the NSBOP issued two (2) separate Citations and Orders to Cease and Desist, to Respondent, Vida Spa and Gisselle Platfoot, respectively, whereby the NSBOP separately determined that Respondent, Vida Spa and Gisselle Platfoot were possessing administering, prescribing and/or dispensing controlled substances and/or dangerous drugs for Nevada patients from Vida Spa, in violation of state and federal law.

9. The NSBOP's Citation to Respondent states that Respondent is possessing, administering, prescribing and/or dispensing controlled substances and dangerous drugs for Nevada patients from her practice in violation of federal and state law.

10. Specifically, this citation notes that her controlled substance registration was suspended, and that she is prohibited from possessing and/or administering controlled substances.

11. The NSBOP determined in this citation that Respondent has violated, attempted to violate, assisted or abetted in the violation of or conspired to violate, without limitation,

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NRS 453.226, NRS 453.316, NRS 453.321(1)(a), NRS 453.331(1)(c),(d),(f) & (i), NRS 453.381(1), NRS 453.401(1)(a), NRS 639.100(1), NRS 639.23505, NRS 639.281, NRS 639.2813, NRS 639.310, 21 U.S.C. § 822(a)(2), 21 U.S.C. § 823(f), 21 U.S.C. § 841(a), 21 U.S.C. § 842(a), 21 U.S.C. § 846 and 21 CFR §§ 1306.03–1306.05.

12. The Citation ordered Respondent to immediately cease and desist possessing, administering, prescribing and/or dispensing controlled substances for Nevada patients from her practice, and assessed an administrative fine of five thousand dollars ($5,000.00).

13. In addition to the violations of various state and federal laws pertaining to the possessing, dispensing, and/or administering controlled substances and/or dangerous drugs that are the subject of the NSBOP citations, between the dates of (on or about) April 13, 2021, to (on or about) June 23, 2021, Respondent performed invasive surgical procedures, such as liposuction and fat grafting, at Vida Spa.

14. As stated above, Vida Spa is not an accredited surgical facility, nor does it have a permit and has never obtained a permit from the BOH to offer services of general anesthesia, conscious sedation or deep sedation to patients, pursuant to NRS 449.442(1).

15. On or about April 13, 2021 through, approximately, June 23, 2021, Respondent administered Propofol for the purposes of general anesthesia, conscious sedation or deep sedation for the aforementioned invasive surgical procedures, at least seventy-three (73) times to at least seventy-two (72) individual patients, all in violation of NRS 630.373, which provides in pertinent part, that, in the State of Nevada, a physician shall not administer or supervise directly the administration of general anesthesia, conscious sedation or deep sedation to patients unless the general anesthesia, conscious sedation or deep sedation is administered:

a. In an office of a physician or osteopathic physician which holds a permit pursuant to NRS 449.435 to 449.448, inclusive;

b. In a facility which holds a permit pursuant to NRS 449.435 to 449.448, inclusive; and

c. In a medical facility as that term is defined in NRS 449.0151.

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16. Neither Vida Spa nor its proprietors hold any required permits issued by the BOH, and Vida Spa is not a medical facility as defined by NRS 449.0151.

17. Respondent, in an effort to conceal her illegal conduct, violated NRS 630.3062(1)(a) by falsifying her health care records for at least sixty-two (62) patients of the seventy-two (72) treated by failing to note that she had administered Propofol, in an attempt to conceal the fact that Propofol was being administered for the purpose of general anesthesia, conscious sedation or deep sedation at an unpermitted and unaccredited facility, in violation of NRS 630.373.

18. Respondent omitted information from the health care records for at least sixty-one (61) patients causing these records to be untimely, inaccurate, illegible, or incomplete in violation of NRS 630.3062(1)(a).

19. Respondent violated the standards of practice pursuant to NRS 630.306(1)(b)(2) and NAC 630.230(1)(a), by falsifying her patients' records of health care, which is grounds for disciplinary action in each of the sixty-two (62) instances.

20. Respondent further violated NRS 630.306(1)(p), which provides that engaging in any act that is considered unsafe or unprofessional conduct, in accordance with regulations adopted by the Board, constitutes grounds for initiating disciplinary action, when she falsified medical records for the purpose of concealing the use of Propofol for general anesthesia, conscious sedation or deep sedation at Vida Spa, an unpermitted and unaccredited facility in violation of NRS 630.373(1), which is unsafe and unprofessional conduct, in each of the sixty-two (62) instances.

COUNTS 1-72

PATIENTS A - TTT

NRS 630.373 – Administering General Anesthesia, Conscious Sedation, or Deep Sedation at an Unaccredited Location

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

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22. NRS 630.373 provides in pertinent part that:

> [a] physician shall not administer or supervise directly the administration of general anesthesia, conscious sedation or deep sedation to patients unless the general anesthesia, conscious sedation or deep sedation is administered: (a) In an office of a physician or osteopathic physician which holds a permit pursuant to NRS 449.435 to 449.448, inclusive; (b) In a facility which holds a permit pursuant to NRS 449.435 to 449.448, inclusive, and (c) in a medical facility as that term is defined in NRS 449.0151.

23. Respondent administered Propofol to at least seventy-two (72) patients each in violation of NRS 630.373.

24. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

COUNTS 73-133

PATIENTS A - III

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

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

26. Violation of NRS 630.3062(1)(a) is grounds for disciplinary action to fail to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

27. Respondent, in an effort to conceal her illegal conduct, violated NRS 630.3062(1)(a), when she falsified the medical records of at least sixty-one (61) patients for the purpose of concealing the use of Propofol for general anesthesia, conscious sedation or deep sedation at Vida Spa, an unpermitted and unaccredited facility.

28. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

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COUNTS 134-194

PATIENTS A - III

NRS 630.306(1)(b)(2) – Violation of Standards of Practice

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

30. NRS 630.306(1)(b)(2) provides that engaging in any conduct which the Board has determined is a violation of the standards of practice established by regulation of the Board constitutes grounds for initiating disciplinary action.

31. NAC 630.230(1)(a) provides that it is prohibited professional conduct to falsify records of health care.

32. Respondent, in an effort to conceal her illegal conduct, violated standards of practice pursuant to NRS 306.306(1)(b)(2) and NAC 630.230(1)(a), by falsifying her records of health care for at least sixty-one (61) patients, for the purpose of concealing the use of Propofol for general anesthesia, conscious sedation or deep sedation at Vida Spa, an unpermitted and unaccredited facility, which is grounds for disciplinary action or denial of licensure.

33. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

COUNTS 195-255

PATIENTS A - III

NRS 630.306(1)(p) – Engaging in Unsafe or Unprofessional Conduct

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

35. NRS 630.306(1)(p) provides that engaging in any act that is unsafe or unprofessional conduct in accordance with regulations adopted by the Board constitutes grounds for initiating disciplinary action.

36. NAC 630.230(1)(a) prohibits falsifying records of health care.

37. Respondent falsified medical records for at least sixty-one (61) patients, for the purpose of concealing the use of Propofol for general anesthesia, conscious sedation or deep

sedation at Vida Spa, an unpermitted and unaccredited facility in violation of NRS 630.373(1), which is unsafe and unprofessional conduct.

38. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

COUNT 256

NRS 630.305(1)(e) – Aiding the Unlicensed Practice of Medicine

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

40. NRS 630.305(1)(e) provides that aiding, assisting, employing or advising, directly or indirectly, any unlicensed person to engage in the practice of medicine contrary to the provisions of this chapter or the regulations of the Board constitutes grounds for initiating disciplinary action or denying licensure.

41. Respondent, who performed liposuction and administered Propofol for general anesthesia, conscious sedation or deep sedation at Vida Spa, aided the unlicensed practice of medicine when she allowed Giselle Platfoot, Manager of Vida Spa, who holds no professional license to practice medicine, to manipulate and diagnose patients who were seeking Liposuction and other medical procedures at Vida Spa.

42. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

COUNT 257

NRS 630.301(9) – Engaging in Conduct that Brings the Medical Profession into Disrepute

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

44. NRS 630.301(9) provides that it is grounds for disciplinary action for a physician to engage in conduct that brings the medical profession into disrepute.

45. Respondent falsified medical records for at least sixty-two (62) patients, for the purpose of concealing the use of Propofol for general anesthesia, conscious sedation or deep

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sedation at Vida Spa, an unpermitted and unaccredited facility in violation of NRS 630.373(1), which is unsafe and unprofessional conduct.

46. Respondent administered Propofol to at least seventy-two (72) patients all in violation of NRS 630.373.

47. These actions constitute conduct that brings the medical profession into disrepute in violation of NRS 630.301(9).

COUNT 258

NRS 630.3065(2)(a) – Violation of a Board Order

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

49. NRS 630.3065(2)(a) provides that it is grounds for disciplinary action for a physician to knowingly and/or willfully fail to comply with an order of the Board.

50. In June 2019, Respondent signed and agreed to a Settlement Agreement (SA) in Case No. 18-10032-1. This SA incorporated by reference two other matters (Case Nos. 12-10032-1 and 14-10032-1 and an Order for Modification, of which she requested.

51. The Order for Modification included clear language that put Respondent on notice that she was still restricted to only having the ability to perform anesthesia during the time of her probationary period regarding the SA in June 2019.

52. Respondent's probationary period for the June 2019 SA was not set to expire until June 2022.

53. Respondent was performing surgical liposuctions and fat transfers in or about 2021.

54. By performing surgical liposuction and fat transfers, Respondent was in violation of an order of the Board.

55. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

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COUNT 259

PATIENT TTT

NRS 630.301(4) – Malpractice

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

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

58. 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."

59. 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 she failed to provide sedation or analgesia in a properly permitted facility, perform a pre-anesthetic evaluation, use proper monitoring throughout the procedure, appropriate post-surgical recovery monitoring and care, and to discharge Patient TTT home when hemodynamically unstable, rather than sending her directly to a hospital.

60. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

COUNT 260

PATIENT TTT

NRS 630.301(4) – Malpractice

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

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

63. 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."

64. 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 she failed to provide proper intraoperative and post operative care and documentation of that care when Patient TTT lost a significant amount of blood and then experienced a syncopal event in the parking lot.

65. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

WHEREFORE, the Investigative Committee prays:

1. That the Board give Respondent notice of the charges herein against her and give her notice that she 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 20th day of September, 2022.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

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VERIFICATION

STATE OF NEVADA)
: ss.
COUNTY OF CLARK)

Victor M. Muro, 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 Second Amended 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 20th day of September, 2022.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: V M Muro MD

VICTOR M. MURO, M.D.
Chairman of the Investigative Committee

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BEFORE THE BOARD OF MEDICAL EXAMINERS

OF THE STATE OF NEVADA

FILED

MAY 16 2023

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

In the Matter of Charges and Complaint

Against

MARYANNE DEFOREST PHILLIPS, M.D.,

Respondent.

Case No.: 21-10032-1

HEARING OFFICER'S SYNOPSIS OF EVIDENCE, CONCLUSIONS, AND RECOMMENDATIONS

This case was heard by the undersigned Hearing Officer on December 19, 20, and 21, 2022. Appearing on behalf of the Investigative Committee ("IC") of the Board of Medical Examiners of the State of Nevada ("Board") was Donald White, Esq., Senior Deputy General Counsel for the Board. Dr. Phillips was present at the hearing with her counsel Leo P. Flangas of the Flangas Civil Law Firm. Also appearing with Mr. Flangas was Ms. Natasha Smith and Dr. Allen Miller.

The Second Amended Complaint on file with the Board was heard, which contains the following allegations: Counts 1-72 allege Administering General Anesthesia, Conscious Sedation, or Deep Sedation at an unaccredited Location; Counts 73-133 allege Failure to Maintain Proper Medical Records; Counts 134-194 allege Violations of the Standards of Practice; Counts 195-255 allege Engaging in Unsafe or Unprofessional Conduct; Count 256 alleges Aiding the Unlicensed Practice of Medicine; Count 257

alleges Engaging in Conduct that Brings the Medical Profession into Disrepute; Count 258 alleges Violation of a Board Order, and; Counts 259 and 260 allege Malpractice. In his closing argument, Mr. White moved to dismiss Count 258 without prejudice. There was no objection to that oral motion.

This preliminary note is offered to provide Dr. Phillips and the Board with reassurance which the undersigned sees as relevant to this proceeding. This Hearing Officer has heard allegations against Dr. Phillips before on more than one occasion. Combined with that reality, this immediate case entails 260 charges against her. If these cases were decided by juries without legal education and training, these circumstances of multiple prior cases and an abundance of allegations to wade through in the instant matter could taint the decision-making process. In criminal court, there are laws and rules to protect an accused from being convicted for "prior bad acts" which have little or nothing to do with the allegations immediately pending. There are also specific instructions given to juries not to be influenced by the sheer number of charges against an accused. In other words, it would never be appropriate for a decision-maker to believe that, "with so many charges being levied against her, this person must have done something wrong." Neither the reality that this Hearing Officer has heard charges against Dr. Phillips before, nor the quantity of charges here, weighs on this Hearing Officer's decision-making process in this case. Dr. Phillips was very-well served by her counsel in this case. Mr. Flangas both defended the IC's allegations and presented evidence on behalf of Dr. Phillips in exemplary fashion. Further, the undersigned finds Dr. Phillips to be a friendly and likeable person. So for clarity, the fact-finding, conclusions, and recommendations contained herein are made without any prejudice against Dr. Phillips from any inappropriate influence.

THE EVIDENCE

General Background

The record is replete with uncontroverted evidence that Dr. Phillips, who at all times relevant to this proceeding was subject to a Settlement Agreement with the Board (Exhibit 1, but see also Exhibits 100, 101), spent approximately a year, from June of 2020 until June, 2021, working as an independent contractor for a "medical spa" in Las Vegas known as Vida Spa. While Vida Spa may be commonly considered as a medical spa or "medi-spa", it is a medical facility subject to State licensing and regulation by the Nevada Department of Health and Human Services. Vida Spa was owned at least in part by Giselle Platfoot. Her applications for State licensure were denied, and accordingly, Vida Spa was never an authorized medical facility in the State of Nevada. See Exhibits 48, 49, 50. Accordingly, Vida Spa was never an authorized facility for, inter alia, the administration of anesthesia or sedation. See generally, testimony of IC Investigator LaRue. The evidence is clear that at Vida Spa, inasmuch as Dr. Phillips is concerned, there were two sets of medical records maintained. One of those sets contained everything that Dr. Phillips recorded about her cases, with the exception of when propofol is administered to a patient. The other record which is referred to as a "sedation log" or "sedation log book" details the administration of propofol to Vida Spa's patients. Accordingly, in order to see the full record, one would have to view Dr. Phillips' own chart, as well as Vida Spa's sedation log. Exhibits 11, 12, 13, Transcript, pp. 76-78, 80 ("T.76-78, 80"). It is significant to clarify that the separate sedation log was not provided to the IC by Dr. Phillips or by Vida Spa in response to either of the IC's requests for documents. Rather, it was discovered by IC investigators in their on-site office inspection at Vida Spa. Transcript, Day 2, 25-27 ("T2.25-27").

As shown below, one of Dr. Phillips 'patients, referred to herein as Patient TTT, suffered a syncopal event after having a procedure performed at Vida Spa by a physician's assistant. Dr. Phillips was overseeing anesthesia and was the only medical doctor in the room. After the procedure was over, flumazenil was administered, (apparently by a nurse under Dr. Phillips 'direction). Flumazenil is a medication used to reverse the effects of a benzodiazepine the patient had received prior to her procedure. After being discharged to home by the physician's assistant and/or nursing staff, and on her way to her car, Patient TTT collapsed. Dr. Phillips had a Vida Spa employee call 911 and Patient TTT was taken to the hospital via ambulance, where she apparently recovered after receiving fluids.[1] Before discharging Patient TTT, her vital signs appeared stable, although there is evidence that her systolic blood pressure spiked to 160 at one point. (See testimony of Dr. Marjorie Belsky below.)

Finally, much was made at the hearing of whether a physician is responsible for her medical records, or whether a custodian of records is responsible. At the risk of articulating the obvious, the Hearing Officer clarifies here that the licensee physician is responsible for the content of his/her medical records. A custodian of records - if there be one - may be responsible for the retention of such records and production of same at appropriate times. See NRS 630.3062. But the treating physician has all responsibility for the content of those records, and if a records custodian is not providing proper care of the records, the physician must be responsible to retrieve and keep custody of the records, or place them with a custodian who will handle them properly.

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[1] Because the hospital records for Patient TTT were inadvertently not provided to Dr. Phillips ' counsel, those records were excluded from the evidence.

The Testimony of IC Investigator Johnna LaRue

In addition to the significant background evidence noted above, Ms. LaRue provided the additional testimony noted here. Dr. Phillips does not have a DEA license and accordingly she cannot prescribe narcotics. T.89. However, under prior orders of the Board, she may administer narcotics in her work as an anesthesiologist. T.90. (The majority of the General Background section above was taken from Ms. LaRue's testimony.)

The Testimony of Dr. Borromeo

Dr. Borromeo, who served as Medical Director for Vida Spa for approximately a month, was disciplined for prescribing narcotics to patients of Vida Spa whom Dr. Borromeo did not see, and for failing to supervise medical assistants. T.106-109. Dr. Borromeo did not know that Vida Spa was using propofol as general anesthesia despite reviewing some 20 medical charts for Vida Spa patients. Dr. Borromeo never saw the Sedation Log Sheet. T.113-116. Dr. Borromeo believed Vida Spa was only performing "facial, Botox injection, [and] thermal ablation." T.117. He did not see any surgery rooms. T.118. Dr. Borromeo did not know what Dr. Phillips 'specialty was or what procedures she was performing at Vida Spa. T.118-119. Dr. Borromeo never supervised Dr. Phillips. T.120.

The Testimony of Dr. Sheep

Dr. Andrew Sheep is an emergency medicine physician who testified that when he worked at Vida Spa, he was responsible for his medical records, but not the anesthesia records. T.143. Dr. Sheep saw a nurse give anesthesia under the direction of Dr. Phillips. T.145-146. Dr. Sheep was aware that Vida Spa was using propofol in 2020. T.159. Dr.

Sheep does not know what licensing Vida Spa needed in order to operate legally. T.139-140.

The Testimony of Dr. McCormack

Dr. Tiffany McCormack, a board certified plastic surgeon, testified that flumazenil is a reversing agent for benzodiazepine, essentially to help wake a patient up when they remain somnolent after surgery is over and don't awaken as expected. Since establishing her practice in 2007 or 2008, Dr. McCormack has never used flumazenil. She knows some practitioners who use it, but she does not. T.184. In reviewing the Vida Spa records for Patient TTT, even before the syncopal event occurred, Dr. McCormack would have sent Patient TTT to the hospital rather than discharge her for home. T.188. Further, Dr. McCormack testified that, looking at the treatment Patient TTT received at Vida Spa as a whole, her care fell below the standard of care and was malpractice. T.190-191. Part of the reasoning for her opinion is because the procedure was performed by a physician's assistant, rather than a medical doctor, and because general anesthesia was performed in an unaccredited facility. T.191, 196.

The Testimony of Dr. Janes

Dr. Mark Janes is a board certified anesthesiologist. He reviewed Vida Spa's records for Patient TTT. He testified as follows:

> I remember the biggest concern I had is that when people have altered mental status postoperatively, typically, we always see those patients. If I take care of somebody and they have an altered mental status postoperatively, then it's standard of care to see those patients and see what's going on. And I don't remember seeing any notes to that effect in the papers that I was sent.
> Q So when you say "see those patients," would you monitor them a little longer since they were --
> A It depends on what you see and what you find but, you know, when you give a medicine that reverses a sedation drug we give, that's an indication that their mental status, you know, is not back to

baseline. And for us to discharge them, they need to have a mental status that's pretty close to baseline. And if I'm not mistaken, this person was given Flumazenil afterwards which was to reverse benzodiazepine sedation which indicated to me there was some questions about that person's mental status being they were back to baseline or not.

Q How many times have you used Flumazenil?

A Very, very rarely.

Q So you've been practicing in Nevada for 22 years. Can you give us an estimate of --

A Less than five -- T2.156-157.

The separate sedation log was not something with which Dr. Janes was familiar. And even if there were a separate sedation log, Dr. Janes would still specify how much sedating medication he used in his own record/chart. Further, Dr. Janes inputs all the information into his medical records personally. He does not delegate that task to any third person. T2.160-161. Dr. Janes stated that the volume of IV fluids should be noted in the chart, and he didn't see that on Patient TTT's chart. T2.162-163. Furthermore, Dr. Janes noted the following deficiencies in the chart: lack of post-operative mental status (and possibly pre-operative mental status); lack of supplemental oxygen when using propofol; lack of electrocardiogram record; lack of sufficient frequency of measuring/recording vital signs. Dr. Janes opined that three minutes is an appropriate interval for monitoring and recording vital signs, with five minutes being the longest acceptable interval, especially with use of propofol, "which is a pretty strong medication". Dr. Janes also testified that the intervals noted in the chart do not meet the standard of care. T2.164-167. He also testified that when he has performed anesthesia for liposuction procedures, there are typically the following persons in the room: "an anesthesia person, a surgeon, maybe a surgical assistant, a circulating nurse, a scrub person or two." T2.168-169. He also stated that he has never supervised an RN giving propofol. T2.175.

Additionally, he testified that he does not know any of the laws about licensing a facility and he has not asked any of the facilities where he works whether they were properly licensed. T2.178-179. In testifying that he believes Dr. Phillips 'care failed to meet the standard, Dr. Janes testified that

> "I think my biggest issue I had with this case was the postoperative care that they were giving medicine to reverse sedation, and I didn't see any mental status exam. I didn't see that anybody -- I didn't see anything that was how is this patient doing? Are they talking? Are they incoherent? Do they know who they are, where they are? I didn't see the kind of information that I would expect of somebody that's outside of normal practice when we're reversing sedation medicine. So when you're outside of the scope of practice, then there needs to be more done, and that would include at least basic notes on that if not a full examination by a physician who is responsible." T2.182-183

In summary, it is clear that Dr. Janes was not satisfied with the records for Patient TTT, and that he felt the record-keeping was evidence that malpractice had occurred.

<u>The Testimony of Dr. Belsky</u>

Dr. Marjorie Belsky is an anesthesiologist who is board certified in pain management. She practiced anesthesiology for three to four years before branching out into pain management and medical-based business. She testified that she has not done much work in med-spas. T2.189-191, 213, 227. She is not a member of the American Society of Anesthesiologists and thus she admitted she could not comment on the literature of that society. T2.216-217. She testified for Dr. Phillips that she sees the use of reversing agents as "physician preference" and she didn't see anything in the records to indicate that use of the agent in Patient TTT's case was anything other physician preference. T2.194-195. She saw one systolic blood pressure of 160, but she did not see any concerning "trends" in vital signs. T2.197. She also testified that because Patient TTT was no under general anesthesia, taking and recording vital signs every fifteen

minutes, rather than every five minutes, is within the standard of care. If the patient were not stable, then the anesthesiologist could convert to five-minute intervals, but nothing in Patient TTT's chart indicated that. T2.197-201. She also opined that pre-operative EKG and intra-operative EKG is also physician preference, and that in Patient TTT's case, there may have been an EKG but without a strip attached, and accordingly, she just didn't know what occurred from the chart. T2.208-210.

The Testimony of Dr. Phillips

On examination of Dr. Phillips, she testified as follows: Dr. Phillips began working at Vida Spa in June of 2020. She left Vida Spa in June, 2021. She is not board certified in anesthesiology. She was previously board certified in pain management. She is not board certified in other specialties. T2.74-75.

Dr. Phillips performed liposuction at Vida Spa after she "took a class". She only used propofol "with Dr. Borromeo's case, a standby", which she described as "MAC anesthesia", or Monitor Anesthesia Care, i.e. "It's merely monitoring the patient in an emergency and making sure they're stable on discharge." T2.65-66. Dr. Phillips gave a test dose to ensure the patient was not allergic to propofol, and then the nurse administered the propofol while Dr. Phillips monitored. "I would be available. If there was any decrease in the blood pressure, respirations, any adverse reactions, I would be available to assist in resuscitating the patient or telling the nurse: Hey, you know, back off a little bit so that it's safe and oxygen has to be given, nasal oxygen. That's it." T2.66-67. While Dr. Borromeo was the medical director, Dr. Phillips supervised nurses and observed the procedure - nothing more. T2.68-69.

After Dr. Borromeo left, Dr. Serrano became medical director at Vida Spa. Dr. Phillips was told he was a plastic surgeon from Miami. She didn't know anything about

him other than that. Dr. Serrano did perform liposuction procedures at Vida Spa. T2.69. When asked if Dr. Serrano was board certified, Dr. Phillips answered that she did not know, but believed he was. She did not recall his first name. T2.71 After Dr. Serrano left Vida Spa, Dr. Phillips began doing liposuctions. She began an online class with Elite Lipo in March of 2021. T2.69. On June 22, 2021, Dr. Phillips traveled to Elite Lipo in Arizona to do a "hands-on" to obtain her certificate. T2.69-70. When asked how long the in-person training lasted, Dr. Phillips stated "I did some training with Dr. Serrano because he was a plastic surgeon, very experienced. And the requirements for that is just to be a surgery assistant if you have a plastic surgeon present, and I did almost six months of training while he was doing his cases just helping and, you know, being there and observing. T2.70-71. When counsel pressed Dr. Phillips on how long the hands-on training was *at Elite Lipo in Arizona*, she stated "about a week." T2.70-71. When asked for how long a period she performed liposuctions at Vida Spa, Dr. Phillips answered "maybe three months, maybe. *** Maybe the last three months." She clarified that she did not perform any liposuctions during the later months of 2020. T2.72.

Dr. Phillips was the only M.D. in the room at the time of Patient TTT's procedure. The liposuction was performed by Physician's Assistant Tammy Hankin. Dr. Borromeo was Ms. Hankin's supervising physician, but he was not present for the lipo procedure. T2.78. The discharge to home decision was made by Ms. Hankins and the nurses. T2.79. At the time of discharge, Dr. Phillips did not consider sending Patient TTT to the hospital because she was being monitored by the blood pressure machine. T2.79. Dr. Phillips saw that Patient TTT was with a very small family member so Dr. Phillips went downstairs to assist getting Patient TTT into the car. When she arrived downstairs she saw that Patient

TTT was having a syncopal event and Dr. Phillips went to provide advanced life support. T2.79-80.

> " And when I came down and saw that she was having a syncopal episode, I went over to do, you know, ACLS, BLS. I mean, advanced life support, which I'm certified for if there was a problem, and we laid her down. So the syncope relieved a little bit because it was just from hypovolemia, and she was drowsy but responding and talking, but I made the decision that she should go to the hospital because I wouldn't want to send a patient home with family in that condition. It's very common that they have a volume loss even taking out – and she had almost four liters taken out by Ms. Hankins." T2.79.

When asked if it would have been prudent to monitor Patient TTT longer before discharging her, Dr. Phillips stated: "Not always if the patient's not symptomatic. Her blood pressure and vitals were very stable. Her blood pressure was normal. It never did drop down to below a normal level." T2.81.

Counsel asked Dr. Phillips: "Did you report that anesthesia was being used at that facility [Vida Spa] on your 2021 renewal pursuant to NRS 630.30665 like we were talking about this morning?" Dr. Phillips responded that: "I was already suspended at the time that report was due. I didn't get one. * * * I didn't send in anything." She clarified that she did not attempt to renew her license in June, 2021. T2.90-91. However, it appears there was a license renewal and that renewal apparently did not include affirmative statements of sedation occurring where Dr. Phillips was working. T2.104-107.

There is further confusing testimony in Dr. Phillips 'evidence on day two of the hearing (see T2.90-97). A video exhibit was shown which is essentially advertising for Vida Spa which certainly could lead a viewer to believe that Dr. Phillips is at least one of the doctors/professionals performing lipo and other procedures being advertised in the

video. Exhibit 92. She has testified more than once that she only did lipo procedures in her last three months prior to leaving Vida Spa, i.e. April, May, and June, 2021. The video was posted in January, 2021. The testimony is clear that Dr. Borromeo left either in late 2020 or the very beginning of 2021. However, later in her testimony, another video exhibit was shown which was shot no later than December 16, 2020, which shows Dr. Phillips performing a chin-liposuction procedure. Exhibit 93. From the record it is possible that Dr. Serrano was present, although he does not appear in the video. Upon examination by the IC's counsel, an argument ensued about whether chin-lipo is really liposuction, since it is not in a major body cavity. In the back and forth between counsel and Dr. Phillips, she (Dr. Phillips) agreed that the issue was semantics. Transcript Day 3, 6-8 ("T3.6-8").

This exchange left the Hearing Officer increasingly concerned with Dr. Phillips ' candor inasmuch as she had testified that she did not perform any lipo procedures until her last three months at Vida Spa, but was shown in a video to be performing chin lipo no later than the prior December. Combine that inconsistency with the her answer about not attempting to renew her license - which actually was renewed - which requires affirmative disclosures she failed to make, and further, she gave evolving testimony that she assumed the nurses handling anesthesia at Vida Spa were certified because they seemed competent, and the fact that she only asked one nurse about certification because she was new - but minutes later testified that "the nurses were very competent. Most of them -- like I said, if they're dealing with propofol, they were ACLS-certified." T3.13-15. The inconsistencies are stark. On examination by her own counsel, Dr. Phillips testified that about half of the lipo patients received propofol. T2.109. Dr. Phillips oversaw a number of nurses who administered propofol, and she testified that those nurses were certified to operate the

machine that administered the propofol. T2.109-110. Her testimony was confusing at best, unreliable at worst.

Dr. Phillips is "sure" there were times when lipo surgeries occurred when Dr. Phillips was not present, and nurses administered propofol when she was not present. T2.111. She also testified that she/Vida Spa borrowed equipment for her procedures from a dentist who worked in the building, and that she preferred the dental office suction device better than Vida Spa's device. T3.18, 47.

Dr. Phillips acknowledged that licensed physicians are responsible for making accurate medical records. T3.25. She also testified that she worked for Dr. Ezeanolue at Precision Surgery Center for approximately six months commencing October, 2019, and that reversing medications were often used to get patients up and awake and talking. Dr. Phillips testified that these reversing agents are used more commonly in surgical centers than in hospitals because patients need to go home. (Although in her testimony there appears to be an inference that the need to get the patients out of the surgery center is to make room for more patients, i.e. more business, as opposed to what is in the patient's best interests.) T3.35-42, 44, 79. Dr. Phillips did not subpoena or otherwise bring any records from Precision Surgery Center to support that testimony.

Dr. Phillips also testified that she was the medical director for Bionutraceutical Health Solutions. T2.113. But she was never the medical director for Vida Spa. She did not prescribe narcotics to any patients. T2.114-115. She also testified that Vida Spa created the separate Sedation Logs. T2.116. In that regard, the following exchange occurred between Dr. Phillips and her counsel:

> Q And in the beginning, there were forms where you would put the propofol usage in a certain -- in a different section than the sedation log?

A Yes.
Q And then when they changed it, they changed it where you would put propofol usage and the dosage and all of that in the sedation log; is that correct?
A Correct. Yes.
Q Okay. Tell the Hearing [Officer]when you went to the procedure room to do it, was the sedation log and all of the medical records there?
A Yes.
Q The sedation log was there too?
A Yes.
Q Okay. And when you were done, you made sure everything was correct and accurate?
A Yes.
Q Okay. Did you know what they did with the medical records?
A No, I had no idea.
Q Did you know what they did with the sedation log?
A They put them away.
Q They just put them away?
A In the facility.
Q The sedation log documented what dosage and the propofol was given to that patient, right?
A Huh-uh. Yes.
Q Do you even know why they created a sedation log that shows the usage of the propofol that's on a different piece of paper?
A I think Gisselle thought she was supposed to do that.
T2.116-118.

This question-answer exchange could be interpreted that those changes were made either to keep a full medical record overall but to hide Dr. Phillips' involvement in sedation, and/or to hide the fact that Vida Spa, an unlicensed facility, was unlawfully administering sedation. There does not appear to the undersigned to be any other valid reason for separating out the sedation log and omitting that information from the physician's chart - at least not in the record. The concern is heightened when viewed in light of Dr. Janes 'testimony noted above.

When asked by her own counsel, Dr. Phillips testified that when she practiced as an anesthesiologist, she always gave her patients supplemental oxygen, and the oxygen

levels were always recorded on her charts. T3.50-51. Later, on questions from the IC's counsel, Dr. Phillips' testimony was again confusing:

> Q So, you just asked a question about -- you were asked a question about supplemental oxygen, and I think you mentioned that she [Patient TTT] was on supplemental oxygen, right?
> A It was always given to every patient – that was going to have any -- that she got medications here. These medications that Dr. Borromeo prescribed could depress her oxygen level.
> Q So, she was on it and -- but would -- what Dr. Janes talked about yesterday is there's no indication in these records to show she was on oxygen. So, if another doctor looked at it, there was nothing to have indicated she was on supplemental oxygen, unless you could point it out to me that shows she was on supplemental oxygen other than you saying she was.
> A In a surgery center that would be required. In an office, a doctor's office, outpatient, that would not be required. This pulse ox shows that she was adequately oxygenated so, therefore, there's not even a reason to give her oxygen. All these procedures don't have to be given oxygen but they are, or if they get medication that might depress their respirations, such as the Percocet, then it's a safety issue.
> Q Why not write "Supplemental oxygen started at" time?
> A Because sometimes --
> Q -- "female patient, patient taken off supplemental oxygen at" and then a time. It would take two sentences. Why not write them?
> A It's just not required and it's not routinely written. T3.64-65.

And finally in this regard, as she was ending her testimony, the undersigned Hearing Officer asked questions of Dr. Phillips and received answers as follows:

> Q . . . if supplemental oxygen is given -- again, I'm talking in a spa-type setting -- would it be common to give supplemental oxygen and not put that in the chart or in the medical record.
>
> A I don't know. It wouldn't, probably. T3.81-82.

CREDIBILITY OF WITNESSES

The Hearing Officer provides the Board with his opinions as to the credibility of the witnesses who testified during three full days of hearings.

///

Ms. LaRue has testified before the undersigned on multiple occasions. She is matter of fact, genuine, and unassuming. For all intents and purposes she presents as a witness who simply shares what she knows without agenda. Her credibility is not questioned.

Dr. Borromeo was a reliable witness. No doubt his entire experience with Vida Spa was far more negative for him than anything positive which may have precipitated, but he did not appear to bring any prejudice or bias to the proceeding, whether for or against either party. The Hearing Officer takes his evidence at face value.

Dr. Sheep appeared to testify honestly. His role in the case was minor. There did not appear to be any reason to question his genuineness.

Dr. McCormack, while retained by the IC as an expert, was credible. The Hearing Officer felt impressed that her reputation in this community as a respected board certified surgeon on whom the public could rely was significantly more important to her than jeopardizing her integrity for any pre-conceived or otherwise contrived agenda. The Board can rely on her testimony at face value.

Dr. Janes was as credible as any witness the Hearing Officer has seen or heard in thirty years of courtroom practice, including a decade of service as a hearing officer for the Board. Dr. Janes is an accomplished board certified anesthesiologist. He has administered anesthesia in tens of thousands of cases. His institutional knowledge of the practice of anesthesiology is sound and utterly reliable. His confidence is reassuring but does not carry any sense of vanity. He presented with no agenda other than to answer questions honestly and straight-forward without dodging.

Dr. Belsky was an expert retained by Dr. Phillips. She is not a board certified anesthesiologist, and she ceased practicing anesthesiology long ago after practicing just a

few years before she branched into pain management and other medical related business. She is knowledgeable on the subject. However, unlike Dr. Janes, she is an artful dodger and she did present with an agenda of doing all she could for Dr. Phillips without lying. She provided information that brought an extra facet of consideration, but she was not nearly as persuasive as Dr. Janes, nor as reliable as Dr. McCormack.

Dr. Phillips, as noted above, presents as s a very likable person. She is not however the most credible witness. Her answers are confusing and as noted above, at times self-contradictory. Inasmuch as she is a Nevada licensee, the undersigned finds it disappointing that I cannot recommend to the Board that her testimony be taken at face value, and even if it were, it would be difficult to know what to make of it taken all together.

CONCLUSIONS AND RECOMMENDATIONS

Because the counts of wrongdoing charged against Dr. Phillips are numerous, and the exhibit pages exceed 2,600 in number, not including those from the record of Dr. Phillips' prior case which are all officially part of the record here, a count by count analysis is unrealistic, and would over-encumber the Board rather than assist it in its final determination. Accordingly, this summary is provided for the Board's use. (And for clarification and ease of reference, Exhibits 15-47, and 55-89 are patient records pertaining to the various charges. Exhibit 102 contains the record for Patient TTT.)

Counts 1-72

Counts 1-72 allege Administering General Anesthesia, Conscious Sedation, or Deep Sedation at an Unaccredited Location in violation of NRS 630.373. The statute at issue states in pertinent part that:

1. A physician shall not administer or supervise directly the administration of general anesthesia, conscious sedation or deep sedation to patients unless the general anesthesia, conscious sedation or deep sedation is administered:

(a) In an office of a physician or osteopathic physician which holds a permit pursuant to NRS 449.435 to 449.448, inclusive;

(b) In a facility which holds a permit pursuant to NRS 449.435 to 449.448, inclusive;

(c) In a medical facility as that term is defined in NRS 449.0151; or

(d) Outside of this State.

* * *

There is no question that Dr. Phillips administered anesthesia and sedation at Vida Spa. It is not contested that Vida Spa is unaccredited as required by this statute. Hence, it could be said for each of the medical records in evidence which show that Dr. Phillips administered anesthesia or sedative medications at Vida Spa that she violated NRS 630.373.

However, in his closing argument, Dr. Phillips 'counsel argues that knowledge of a lack of Vida Spa's accreditation on the part of Dr. Phillips would be necessary to find that she violated this statute. The Hearing Officer would not be moved much by that argument in light of the plain language of the statute were it not for the fact that more than one of the physician witnesses testified that they work in medical facilities without taking any action whatsoever to verify that the facility is licensed. They simply take it for granted that all necessary licenses are in place. Such testimony was even given by Dr. Janes who was the most credible and reliable witness who testified at the hearing. That being the case, it should be determined whether Dr. Phillips knew or didn't know that the facility was not licensed. The most reliable evidence in that regard arises from the separate sedation logs kept by Vida Spa. From the totality of the evidence, it can be reasonably concluded that Dr. Phillips knew - or at least that she should have known that a separate sedation log was being kept to hide the fact that anesthesia / sedation was being performed without proper licensing as she did not note sedation in her own patient

charting, and both from the evidence, as well as from general knowledge, her records should most certainly include that information. Accordingly, the Hearing Officer recommends that the Board find that Dr. Phillips violated at least one of the counts numbered 1 through 72.[2]

Counts 73-133

Counts 73-133 allege that Dr. Phillips Failed to Maintain Proper Medical Records, a violation of NRS 630.3062(1)(a). That statute reads as follows:

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

(a) Failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

Dr. Janes, along with Dr. McCormack, provided sufficient evidence to make clear that Dr. Phillips did not keep "complete" records. Omitting sedation entirely from her chart, which would prevent another professional from knowing what medication, and the dosage of same, a patient had received, is unacceptable. And while Dr. Phillips can argue that the anesthesia / sedation records were kept in the separate sedation log, that will be of little comfort to any patient or treating physician who does not know that a separate sedation log exists. This is especially true when the evidence shows that credible practitioners would not expect any such separate log, but would simply look at Dr. Phillips 'chart for needed information, especially in a critical moment. Hence, again, it is

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[2] In any event, the Hearing Officer believes the Board may want to consider revisiting NRS 630.373. As is, at any given moment there could be hundreds of medical professionals working at facilities throughout the State who have no knowledge whether they are in an appropriately licensed facility. And if the facility in which they are working does not have appropriate licensing, which would include the potentiality that a properly licensed facility has unknowingly allowed its license to lapse, then each of those medical professionals who are administering anesthesia / sedation would be in violation of this statute. Hence, the Board may want to look at the knowledge component on the part of the physician.

recommended that Dr. Phillips be found to have violated at least one of the counts numbered 73-133.

Counts 134-194

Counts 134-194 allege Violations of the Standards of Practice. The law reference as the basis for the allegations is NRS 630.306(1)(b)(2), which states:

1. The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:
(b) Engaging in any conduct:
(2) Which the Board has determined is a violation of the standards of practice established by regulation of the Board;

More specifically, the IC alleges that Dr. Phillips falsified her medical records for the purpose of concealing the use of propofol for general anesthesia / sedation at Vida Spa. The Hearing Officer does find that Dr. Phillips either knew or should have known that Vida Spa, by and through its owner Gisselle Platfoot, was actively concealing its administration of anesthesia / sedation, and Dr. Phillips was altering her record-keeping accordingly. Legally, it may be that these allegations are duplicitous of others in the Second Amended Complaint and could thus fail on a court challenge. However, there is a basis to find that Dr. Phillips violated NRS 630.306(1)(b)(2).

Counts 195-255

Counts 195-255 allege Engaging in Unsafe or Unprofessional Conduct. Specifically, the Complaint before the Board alleges that Dr. Phillips 'falsification of her records is "unsafe and unprofessional conduct". Pursuant to the evidence adduced at the hearing and as set out above, the Hearing Officer agrees. So for the patients who had their medical charts altered to omit the administration of anesthesia / sedation, a finding of a violation is recommended.

Count 256

Count 256 alleges Aiding the Unlicensed Practice of Medicine. The statute at issue reads:

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

(e) Aiding, assisting, employing or advising, directly or indirectly, any unlicensed person to engage in the practice of medicine contrary to the provisions of this chapter or the regulations of the Board.

From all that is set out above, the Hearing Officer agrees that this allegation is proven. Specifically, the physician's assistant who performed the lipo procedure on Patient TTT was not licensed to work without a supervising physician. Dr. Phillips oversaw anesthesia / sedation of Patient TTT. In this regard, and likely in others, she aided the unlicensed practice of medicine.

Count 257

Count 257 alleges Engaging in Conduct that Brings the Medical Profession into Disrepute. The statute is NRS 630.301(9) which reads:

The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:
9. The engaging in conduct that brings the medical profession into disrepute, including, without limitation, conduct that violates any provision of a code of ethics adopted by the Board by regulation based on a national code of ethics.

Dr. Phillips' violations do and will bring disrepute on the medical profession. The Hearing Officer recommends that the Board find her in violation under this Count.

Count 258

Counsel for the IC / Board moved to dismiss this Count without prejudice in his closing argument. That oral motion was not opposed. Accordingly, this count is dismissed without prejudice.

Count 259

Count 259 alleges Malpractice. Specifically, NRS 630.040 states that:

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

4. Malpractice, which may be evidenced by claims settled against a practitioner, but only if the malpractice is established by a preponderance of the evidence.

Malpractice is defined in NAC 630.040 as follows:

For the purposes of chapter 630 of NRS, "malpractice" means the failure of a physician, in treating a patient, to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances.

It is clear from the testimony of both Dr. Janes as well as that of Dr. McCormack that Dr. Phillips failed to use the reasonable care due Patient TTT when she allowed an unsupervised physician's assistant to treat her. Further, a lack of appropriate monitoring of Patient TTT during her procedure, and lack of proper assessments and post-operative monitoring of her situation after administration of a reversing agent fall below the standard of care. Moreover, as set out above, the inappropriate omissions from Patient TTT's charts with regard to sedation also falls below the standard. The Board is recommended to find against Dr. Phillips in this regard.

Count 260

Count 260 also alleges malpractice. The Hearing Officer finds this Count duplicitous of Count 259 and accordingly does not recommend the Board make an affirmative finding against Dr. Phillips here.

Respectfully submitted this 16 day of May, 2023.

Charles B. Woodman, Hearing Officer

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In the Matter Of:

Nevada State Board of Medical Examiners

HEARING, VOLUME I

December 19, 2022

Job Number: 926030

1 BEFORE THE BOARD OF MEDICAL EXAMINERS

2 OF THE STATE OF NEVADA

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6 In the Matter of Charges and Complaint Against: Case No. 21-10032-1

7 MARYANNE DEFOREST PHILLIPS, M.D.,

8 Respondent.

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13 TRANSCRIPT OF PROCEEDINGS

14 HEARING

15 December 19, 2022

16 Reno, Nevada

17 Volume I

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23 REPORTED BY: CONSTANCE S. EISENBERG, NV CCR 142, CRR, RMR, RPR, CA CSR 4157

24 Job No. 926030

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2

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1	2019 Settlement Agreement Signed by Respondent		30
2	Nevada Secretary of State Info for Vida Spa		30
3	Clark County Business License Search Results for Vida Spa		30
4	3/19/21 Allegation Letter w/Request for Response		34
5	4/27/21 Second Request for Response		38
6	5/19/21 Respondent's Response, via Attorney Lyn Beggs		--
7	1/5/21 Dr. Borromeo's Response to Allegation Letter		--
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1 **MONDAY, DECEMBER 19, 2022, RENO, NEVADA, 9:34 A.M.**

2 **-o0o-**

3 THE HEARING OFFICER: We are on the record before the
4 Board of Medical Examiners of the State of Nevada in the Matter of
09:34AM 5 Charges and Complaint Against Maryanne Deforest Phillips, M.D.
6 this is Case Number 21-10032-1.
7 Present with us today is Mr. White on behalf of the
8 Investigative Committee of the Board.
9 Mr. Flangas on behalf of Dr. Phillips.
09:34AM 10 Dr. Phillips is present with us.
11 And I apologize, I didn't write it down, we have
12 another, essentially a consultant physician. Is it Dr. --
13 DR. MILLER: Allen, A-L-L-E-N, M-I-L-L-E-R.
14 THE HEARING OFFICER: Dr. Allen Miller. Very good.
09:35AM 15 MR. FLANGAS: For the record, he's not -- yeah, he's
16 going to be my consultant, but he's my assistant, along with
17 Ms. Natasha Smith.
18 THE HEARING OFFICER: And Ms. Smith is also here with
19 Mr. Flangas. Very good.
09:35AM 20 And for the record, prior to going on the record, our
21 reporter, Ms. Eisenberg disclosed that her husband -- who, of
22 course, is a very well-known, well-respected attorney, long time
23 here in Reno -- has a professional relationship with Mr. Flangas.
24 And Mr. White waived any potential conflict there.
09:35AM 25 As a hearing officer, I certainly, with Mr. Eisenberg's

1 reputation, I've just got no concerns in that regard, so we're
2 going to move forward.
3 And we're not sure we'll have Ms. Eisenberg as our
4 reporter all three days, we hope we do, but we'll deal with what
09:36AM 5 we've got to deal with, based on her schedule.
6 All right. That being said, we've talked about a few
7 housekeeping items off the record that I don't think need to be
8 introduced here. They may come up later.
9 And both counsel have stated they want to make an
09:36AM 10 opening statement here at the outset, so we will begin with
11 Mr. White on behalf of the IC.
12 Ms. Reporter, as you know, when anybody mentions the
13 "IC," we're talking about the Investigative Committee of the
14 Board.
09:36AM 15 So Mr. White.
16 MR. WHITE: Thank you, Mr. Woodman.
17 Don White, Senior Deputy General Counsel on behalf of
18 the Investigative Committee, the IC.
19 I would like to thank you, Mr. Woodman, for being here
09:36AM 20 today. Madam Court Reporter, Mr. Flangas, thanks for making it
21 here, and Ms. Phillips, for appearing at this important
22 proceeding.
23 This hearing is to present evidence to determine if
24 Dr. Phillips violated the nine statutes referenced in the Second
09:37AM 25 Amended Complaint that the Investigative Committee filed on

1 September 20th, 2022, containing a total of 260 counts.

2 The complaint contains the following alleged violations:

3 NRS 630.373, administering general anesthesia, conscious sedation,

4 or deep sedation at an unaccredited location. That's Counts 1

09:37AM 5 through 72.

6 NRS 630.373 provides, in pertinent part, a physician

7 shall not administer or supervise directly the administration of

8 general anesthesia, conscious sedation or deep sedation to

9 patients unless the general anesthesia, conscious sedation or deep

09:37AM 10 sedation is administered: A, in an office of a physician or

11 osteopathic physician which holds a permit pursuant to NRS 449.435

12 to 449.448, inclusive; B, in a facility which holds a permit

13 pursuant to NRS 449.435 to 449.448, inclusive; and in a medical

14 facility as that term is defined in NRS 449.0151.

09:38AM 15 Also, one of the other statutes alleged is failure to

16 maintain proper medical records, which is NRS 630.3062(1)(a),

17 that's count 73 through 133; NRS 630.306(1)(b)(1) -- excuse me,

18 (1)(b)(2), violation of standards of practice, Counts 134 through

19 194; NRS 630.306(1)(p), engaging in unsafe or unprofessional

09:39AM 20 conduct; Counts 195 through 255; NRS 630.305(1)(e), aiding

21 unlicensed practice of medicine. That's Count 256.

22 And let's see. Excuse me a second.

23 Count 257 would be NRS 630.301(9), engaging in conduct

24 that brings the medical profession into disrepute.

09:39AM 25 And then NRS 630.3065(2)(a), violation of a board order,

1 Count 258.

2 And then NRS 630.301(4), which is malpractice, there are

3 two counts of that, for 259 and 260. That's all the counts.

4 Dr. Phillips has been licensed to practice medicine in

09:40AM 5 the State of Nevada since December of 1995.

6 As we sit here today she's still subject to a board

7 order from a settlement agreement filed in June of 2019.

8 And throughout this hearing the evidence will show that

9 Dr. Phillips began working at Vida Spa, aka, it's a med spa, in

09:40AM 10 Las Vegas, in early 2020.

11 Vida Spa was owned and operated by Gisselle Platfoot, I

12 believe one of the witnesses that is on the list for the

13 Respondent.

14 It appears that at first she was assigned -- she being

09:40AM 15 Dr. Phillips -- was assigned to put patients under general

16 anesthesia through the use of propofol so another individual could

17 perform liposuction and fat transfers on patients.

18 Sometime after that Dr. Phillips began doing liposuction

19 and fat transfers, and it appears that she was the only person

09:41AM 20 doing those for a period of time.

21 The evidence will also show that Vida Spa did not

22 possess a permit to perform general anesthesia pursuant to

23 NRS 630.373.

24 Propofol was used numerous times at Vida Spa to put

09:41AM 25 patients under general anesthesia.

1 The evidence will go on to show that even though
2 propofol was used for general anesthesia, it was almost
3 exclusively left out of the medical records, but was tracked in a
4 separate sedation log.
09:41AM 5 The evidence will show that this separate sedation log
6 was improper and an effort to conceal the use of propofol in an
7 unpermitted facility, which pertains to counts 73 through 255.
8 The evidence will show that Respondent committed one of
9 the counts of malpractice because she failed to use the reasonable
09:42AM 10 care, skill or knowledge ordinarily used under similar
11 circumstances during her pre-operative, interoperative and
12 post-operative care as an anesthesiologist in an unpermitted
13 facility.
14 Finally, the evidence will show that the Respondent
09:42AM 15 committed one of the counts of malpractice, the other count,
16 because she failed to use reasonable care, skill or knowledge
17 ordinarily used under similar circumstances, by failing to provide
18 proper intraoperative and post-operative care, and documentation
19 of that care, despite patient TTT requiring flumazenil, Patient
09:42AM 20 TTT losing a significant amount of blood which led to a syncopal
21 event in the parking lot of the facility.
22 The testimony and evidence that will be presented during
23 this hearing will establish by a preponderance of the evidence
24 that Dr. Phillips violated the Nevada Medical Practice Act as
09:42AM 25 charged in the Second Amended Complaint.

1 So on behalf of the Investigative Committee we ask the
2 Board, once they get this case, we ask the Board to consider the
3 record that will be presented here and render the appropriate
4 findings and discipline.
09:43AM 5 Thank you.
6 THE HEARING OFFICER: Thank you, Mr. White.
7 Mr. Flangas, when you are ready, sir.
8 MR. FLANGAS: Okay. Thank you.
9 For the record, good morning, everyone.
09:43AM 10 My name is Leo Flangas. I'm here to and will be
11 representing Ms., or Dr. Maryanne Phillips, who's next to me right
12 now.
13 The operative charging document before you, this woman,
14 is the Second Amended Complaint. And in there you have a list of
09:43AM 15 counts all the way up to Count Number 260.
16 What I want and what I want to address this tribunal is
17 the factual allegations or the general factual allegations that
18 the State is actually, or the IC is actually alleging here. Okay?
19 So on Counts I through 72, Mr. White explained what the
09:44AM 20 violations, what the alleged violations were, but all of Counts
21 172, the cause of action, the actual allegation is being made, is
22 that the administration of propofol was administered or supervised
23 at a location that's not a licensed medical facility. Okay?
24 You'll see in the evidence there is no contention or
09:44AM 25 dispute that Maryanne, at one stage she worked there for

1 approximately one year. At the beginning stage of the procedures
2 where she was working there, she was there as an anesthesiologist,
3 and she was there to oversee and be kind of a safety net for the
4 propofol administration.
09:45AM 5 The evidence will show that what Gisselle Platfoot, who
6 is the owner of Vida Spa had, was she had a facility that was set
7 up, that was operating for five years, four or five years prior to
8 Maryanne even getting hired there.
9 She had a dozen doctors going in and out of that
09:45AM 10 facility working there as plastic surgeons, as -- you know, other
11 type of doctors, anesthesiologists, whatever.
12 She had dozens and dozens and dozens of registered
13 nurses that were working for her during the time period, during
14 the time period that she operated Vida Spa.
09:46AM 15 She had physicians assistants working there.
16 She might have had -- my memory escapes me and we'll see
17 what the evidence shows -- maybe a nurse practitioner working
18 there, I don't know.
19 The point is, this was a high end spa in Las Vegas that
09:46AM 20 was presented very well and had every type of employer,
21 independent contractor, every type of medical profession working
22 there for a series of years.
23 In addition, Gisselle Platfoot and Vida Spa had medical
24 directors that were in charge of the whole facility, the operative
09:46AM 25 time -- for the three, four years -- but the operative time that's

1 important for this tribal is that she had medical directors during
2 the time period that Maryanne Phillips, Dr. Phillips was working
3 there.
4 Dr. Phillips was an independent contractor that was
09:47AM 5 hired. She was paid on an independent contractor basis.
6 She was never a medical director of the facility. She
7 was never in charge of the facility.
8 She was never in charge of the medical records in the
9 facility.
09:47AM 10 She was never in charge of licensing for the facility.
11 She had nothing to do with the facility except she had
12 to go and work there.
13 Now, the evidence will show that the persons responsible
14 for the licensing of the facility would be the owner and the
09:47AM 15 medical director.
16 That is what the law is and that's standard procedure
17 all over. That's why you have medical directors, to oversee
18 everything.
19 At the beginning, it was Dr. Borromeo, who's a witness.
09:48AM 20 And you'll see that Gisselle always had one or even two medical
21 directors for the facility during the time period, the operative
22 time period that Maryanne, Dr. Phillips was working there.
23 It's also important to note that on the -- so they had a
24 procedure room. The proper licensing for the facility is an
09:48AM 25 outpatient facility. You'll see language that calls it a medical

1 facility also in the statutes, but for licensing, it's outpatient.
2 Same thing, from what I could gather.
3 And there's evidence that will be presented that in
4 2020, one year, or prior, to even -- you have a list of a lot of
09:49AM 5 medical records of all the patients there, where propofol was
6 being administered.
7 And you have the State, or the IC is highlighting one
8 patient in particular. It's a patient, (TTT). And that's the one
9 where they're highlighting for the medical malpractice. Okay?
09:49AM 10 So at the time that the (Patient TTT) procedure
11 occurred -- actually, it's not even an operation, it's not even
12 being considered an operation.
13 MR. WHITE: One second. I'm sorry, Leo, not really an
14 objection. We just keep names of patients off the --
09:49AM 15 THE HEARING OFFICER: Are we referring to that person as
16 Patient A?
17 MR. WHITE: That's Patient TTT.
18 THE HEARING OFFICER: TTT?
19 MR. WHITE: So if we could, just, yeah, if we could use
09:49AM 20 the patient designation, yeah.
21 MR. FLANGAS: Okay. I didn't know that.
22 MR. WHITE: Thank you. No, that's okay.
23 So if we could actually strike that, I would like to
24 strike that from the record, just that name.
09:49AM 25 THE HEARING OFFICER: So let's just replace the actual

1 name with "Patient TTT."

2 MR. FLANGAS: So Gisselle Platfoot had RNs who were

3 trained and certified in administering propofol during the entire

4 tenure that Dr. Maryanne Phillips was there.

09:50AM 5 What does this mean? The RN -- and you'll hear evidence

6 the RN is trained in the machine that administers it, that governs

7 the flow -- she's certified in that.

8 And Dr. Maryanne Phillips didn't even have to be in the

9 room for that administration. Procedures could have been

09:50AM 10 conducted without her there. Okay?

11 As -- when she was working as an anesthesiologist, she

12 was brought in as a safety net and to oversee. She would perform

13 a test dose. It's called a test dose -- I spell it

14 T-E-S-T-O-S,which is -- initially her portion of it -- would

09:51AM 15 perform a test dose, to see if there was any allergic reaction.

16 And then she would step back and just monitor and watch

17 the RN work the machine, do what she's doing. And she acted as a

18 safety net in case there was any type of emergencies.

19 Later on -- as I said, she worked there for about a

09:51AM 20 year. Later on she started -- she was trained by doctors, other

21 doctors who worked there, to perform liposuction, body transfer.

22 And she also went and got a certificate for that too. So later on

23 she did that. It's -- anyway -- okay.

24 So with the TTT patient, Dr. Phillips was not the

09:52AM 25 physician or the nurse that was performing liposuction. It was a

1 physician assistant named Tammy --

2 DR. PHILLIPS: Hankins.

3 MR. FLANGAS: -- Hankins, who actually performed that

4 procedure. That's -- Dr. Phillips just got hired within the

09:52AM 5 couple of weeks from that case, and she was there doing only the

6 anesthesia part.

7 So now I want to go back to the -- I think what I want

8 to address is the factual allegations of each of the counts. As I

9 stated, the propofol administration is not a -- is not in dispute.

09:52AM 10 What is in dispute and what is critical, or what's

11 important, is that Dr. Maryanne Phillips at no time knew this was

12 an unlicensed facility.

13 She went there knowing that this facility was in

14 operation for several years.

09:53AM 15 She went there knowing that there was a medical director

16 named Dr. Borromeo who was in charge of everything, who is

17 technically, by his contract, in charge of making sure it's

18 licensed.

19 She went there knowing that there were other doctors

09:53AM 20 working there, and physician assistants and registered nurses.

21 And it comes down to the fact that you have dozens and

22 dozens of people that were duped.

23 And she'll testify that she was told they were fully

24 licensed. And it's not something that comes out, "Hey, are you

09:53AM 25 fully licensed?" Because that's not the common -- the evidence

1 shows no one goes up -- no nurse, doctor or -- goes and starts
2 working, in common usage and practice, and states "Okay, do you
3 have a license for -- do you have a facility license?"
4 That's like a secretary making sure that the lawyer has
09:54AM 5 a business license before she starts working there.
6 So anyway, the counts are 1 through 72, and that's
7 basically supervising or administrating propofol in an unlicensed
8 facility.
9 That's the only factual basis for those counts.
09:54AM 10 Counts 73 through 133 is failure to maintain timely,
11 legible, accurate and complete medical records related to the
12 diagnosis and treatment.
13 That allegation is based on the factual allegation the
14 propofol records were not kept with the medical records of the
09:55AM 15 patient and were kept separate, which is important for this
16 tribunal.
17 The State is alleging that because there were some
18 propofol records that were kept separate, that that somehow is a
19 deception. And we'll show through evidence that there's no
09:55AM 20 statute in Nevada that says it could be kept -- keeping it
21 separate, it has to be kept together.
22 Second of all, that's not Dr. Phillips's job. She's not
23 the medical director of the facility. She didn't even have a key
24 to the file cabinet to where -- that was Dr. Borromeo and Gisselle
09:55AM 25 Platfoot.

1 The second factual allegation in Count 73 through 133 is
2 the illegal conduct, and to falsify medical records of at least 61
3 patients, is based on the factual allegation -- well, it's the
4 same one, that the propofol records were not kept with the medical
09:56AM 5 records of the patients and were kept separate. So it's the same
6 factual allegation.
7 Counts 134 through 194 is based on the factual
8 allegation that concealing illegal conduct by falsifying her
9 records of healthcare for at least 61 patients, for purpose of
09:56AM 10 concealing the propofol use in the unaccredited facility. And
11 that's based on the propofol records being kept separately.
12 Counts 195 to 255, the factual allegation, the sole
13 factual allegation behind all of those counts is that it's based
14 on the propofol records not being kept in the same location as the
09:56AM 15 patients' medical records.
16 Count 256, the factual allegation, the sole factual
17 allegation for that is that the unlicensed person to engage in
18 practice of medicine by performing liposuction and propofol
19 administration is based on the factual allegation that the medical
09:57AM 20 spa was unlicensed and not a medical facility.
21 Count 257, the sole allegation is the fact that the
22 medical records for the propofol administration was kept
23 separately in at least 62 patients, and that by keeping it
24 separately, it's somehow a falsifying of records.
09:57AM 25 And, again, we'll show that that's the medical

1 director's job, and she had no control over that part of the
2 facility. She was not the owner. She was just an independent
3 contractor.
4 Okay. Count 258, that's a count that is based on the
09:58AM 5 factual allegation that performing surgical liposuction and fat
6 transfers was a violation of an order of the Board, and that's
7 based on her previous orders.
8 And so that's a legal question that we're going to dive
9 into. And so that's based on previous orders and the reading of
09:58AM 10 the previous orders, and the State is going to present evidence
11 and we'll see what -- how that comes out.
12 And then we have two more counts. We have Count 259.
13 And that factual allegation is the malpractice, is based on the
14 factual allegation that the liposuction and/or fat transfer was
09:58AM 15 done below standards.
16 And the facts, the defense it will have for that is she
17 didn't do the liposuction for Patient TTT. She didn't do the fat
18 transfer. She wasn't even trained at the time to do it. She was
19 there to oversee the anesthesia.
09:59AM 20 And then Count 260 is the similar malpractice count, but
21 that is related to the anesthesia, propofol use, was done below
22 standards.
23 The evidence will show that on Patient TTT that Tammy
24 Hankins, who did the liposuction, injured the patient somehow,
09:59AM 25 that it was not obvious, that all her -- TTT's vital signs were

1 fine afterwards.

2 You know, the procedure of liposuction is you are

3 pulling out large amounts of fat, and so they do become dehydrated

4 and lose blood. That's true with everybody.

10:00AM 5 And she was monitored by the RN, and she was monitored

6 by Dr. Phillips. There's evidence in of the books, pictures of

7 her after the operation with her dress on, being monitored.

8 You'll see the medical records show she was being monitored.

9 The standard procedure that they used was that they

10:00AM 10 wheeled her outside after she showed no signs of any visible

11 problems. Her pulse rate was fine. Her heart rate was fine.

12 And when she was getting in the car, Dr. Phillips was

13 there the whole time. She started feeling lightheaded and

14 Dr. Phillips ordered the standard procedure, which was you lay her

10:00AM 15 down. And she checked her out and called 911 right away. And the

16 ambulance came.

17 This is during COVID times. And they took her to the

18 hospital. At the hospital they gave her fluids and they released

19 her.

10:01AM 20 And then she went back, I think it was the next day or

21 whenever she went back, and then they did another blood

22 transfusion.

23 So we will show that her standard of care, of monitoring

24 afterwards, was above standard, met the standard, and there was no

10:01AM 25 visible signs of any issues until she started feeling light-headed

1 outside of the car.

2 One other topic, as to the licensing at the Vida Spa,

3 the State will have letters and evidence that it wasn't a licensed

4 outpatient facility in 2021.

10:02AM 5 We have documents in evidence to show that in 2020 a

6 year before the State actually went and investigated the spa,

7 talked to Gisselle Platfoot, knew what they were doing the whole

8 time, led her to the point of, okay, this is what needs to be done

9 to become licensed, because there's nothing -- to become licensed

10:02AM 10 for that spa, they had all the equipment in the spa to be

11 licensed. They had the crash cart. They had everything.

12 So it was just getting licensed by the State was the

13 hurdle, that Gisselle Platfoot applied, paid money. And for

14 whatever reason, it never went through. It just stayed on hold.

10:03AM 15 We don't know.

16 We know that Gisselle Platfoot told people that she was

17 fully licensed. And we know that the State of Nevada medical

18 licensing department knew that she's operating and she's not

19 licensed for that year, and let her operate with the application

10:03AM 20 in.

21 And this will be significant later on for closing

22 arguments as to, you know, different people having different

23 knowledge, and the State of Nevada knowing that, you know, she was

24 operating, and that these doctors and nurses were coming in, doing

10:03AM 25 these procedures.

1 And so in the end, as I said, the factual allegation
2 comes down to performing these procedures in a facility that does
3 not have the actual license by the State of Nevada. And it comes
4 down to who is responsible for the medical records, and whether
10:04AM 5 even keeping propofol records separate from medical records is
6 even a violation of law, and who was in control of that and who
7 had the keys to the file cabinets of that.
8 That's all.
9 THE HEARING OFFICER: Very good. Thank you. Give me
10:04AM 10 one moment here.
11 All right. With that, Mr. White, you can call your
12 first witness.
13 MR. WHITE: Thank you. I call Ms. Johnna La Rue.
14 THE HEARING OFFICER: Ma'am, if you'll raise your right
10:06AM 15 hand, our reporter will swear you in.
16
17 JOHNNA LaRUE
18 called as a witness, having been duly sworn,
19 testified as follows:
20
21 MR. WHITE: Mr. Woodman, do you have any problem with me
22 standing up?
23 THE HEARING OFFICER: No. You are counsel. You do what
24 you need to do, both of you.
10:07AM 25 Sometimes it feels good to get up and move around a

1 little bit.

2 MR. WHITE: It feels easier to get to the binders too.

3

4 DIRECT EXAMINATION

5 BY MR. WHITE:

6 **Q Ms. LaRue, will you please say your first and last name**

7 **and spell them for the record.**

8 A Johnna, J-O-H-N-N-A. Last name, LaRue. L-A capital

9 R-U-E.

10:07AM 10 **Q Ms. LaRue, what do you do for employment?**

11 A I'm a deputy chief of investigations.

12 **Q And how long -- is this for, do you work at the Nevada**

13 **State Board of Medical Examiners?**

14 A Yes, for the Nevada State Board of Medical Examiners.

10:07AM 15 **Q How long have you worked for the Nevada State Board of**

16 **Medical Examiners?**

17 A 16 and a half years.

18 **Q Okay. How long have you been the deputy chief?**

19 A Two years, I believe.

10:08AM 20 **Q Do you have any other titles?**

21 A Compliance officer.

22 **Q Now were you the investigator originally assigned to**

23 **this case?**

24 A No.

10:08AM 25 **Q And if you can remember, when were you assigned to this**

1 **case?**

2 A It's probably been about eight months.

3 **Q So after -- after we got into 2022, correct?**

4 A I do believe it was reassigned to me, yes. The previous

10:08AM 5 investigator is no longer here.

6 **Q And at that point, did you get -- did you -- were you**

7 **required to get any more evidence, gather any more evidence?**

8 A No.

9 **Q So are you familiar with what is sitting in front of**

10:09AM 10 **you, those binders?**

11 A Yes.

12 **Q So you've had -- have you had time to look at those**

13 **binders since taking over the case?**

14 A Yes, I've been through all the evidence.

10:09AM 15 **Q All right. I'm going to direct your attention then**

16 **to -- actually, could we go off the record for just a moment?**

17 THE HEARING OFFICER: Sure. Off the record.

18 (A discussion was held off the record.)

19 THE HEARING OFFICER: So we're back on the record in the

10:28AM 20 hearing for Dr. Phillips.

21 And off the record we took care of some stipulations to

22 admit into evidence, the majority of the IC's exhibits. And I'll

23 clarify that for the record now.

24 Mr. Flangas has stipulated to the following exhibits

10:28AM 25 into evidence: 1 through 3, 8 and 10 through 47. He's also

1 stipulated to Exhibits 49 through 90, as well as stipulated to
2 exhibits 92 through 97.
3 He's also stipulated to Exhibits 100, 101 and 102.
4 (Exhibits 1 through 3, 8, 10 through 47, 49 through 90,
5 92 through 97, and 100 through 102 admitted into evidence.)
6 THE HEARING OFFICER: All of the remaining exhibits not
7 mentioned here as stipulated into evidence for the IC, which go
8 through Exhibits 109, will be addressed as we come to those during
9 the evidence.
10:29AM 10 And with that, we will get back to direct examination by
11 Mr. White of Ms. LaRue.
12 MR. WHITE: Thank you.
13 BY MR. WHITE:
14 **Q Ms. LaRue, I would like you to take a look at Exhibit**
10:30AM 15 **Number 4.**
16 **Have you had a moment to look at that?**
17 A Uh-huh.
18 **Q Are you familiar with what that document is?**
19 A Yes.
10:30AM 20 **Q What is that document?**
21 A This is an allegation letter. Once we've received a
22 complaint -- this is an allegation letter to Dr. Phillips, related
23 to the specific complaints that we received.
24 Oh, and there's also the order to produce medical
10:31AM 25 records that is attached. It's a standard policy to send one of

1 those.

2 **Q I was going to get that. Is it part of every**

3 **investigation that we do on licensees?**

4 A Yes.

10:31AM 5 **Q Your report?**

6 A Every one.

7 **Q Is that one of the first things you do, is send out an**

8 **allegation letter?**

9 A Yes. As part of our process, once a complaint is

10:31AM 10 received, we develop a summary of the allegations, produce an

11 allegation letter based on that summary, and then an order to

12 produce records goes along with it.

13 **Q If you know, if you can answer this question, what is an**

14 **important reason why we send -- why you send allegation letters?**

10:32AM 15 A We send an allegation letter to give the physician an

16 opportunity to respond to the allegations.

17 **Q And I guess, no, you didn't send this, correct?**

18 A No, I did not.

19 **Q Who did send it? If you look at page 17.**

10:32AM 20 A Senior Investigator Kim Friedman.

21 **Q Have you ever sent allegation letters in your**

22 **investigation of cases?**

23 A Yes.

24 **Q I guess I should ask you, do you investigate cases?**

10:32AM 25 A I do.

1 **Q And is it, I guess for lack of a better word, typical to**
2 **send an order to produce healthcare records along with the**
3 **original letter, allegation letter?**
4 A Yes. When there's a patient involved, the request for
10:33AM 5 medical records goes standard with every allegation letter.
6 MR. WHITE: I'm going to move -- understanding
7 Mr. Flangas has an objection to relevancy along with the rest of
8 that, it is relevant because it mentions the exact patient we're
9 going to be talking about throughout this hearing, Patient TTT,
10:34AM 10 and an attached order to produce those health care records of that
11 patient. So I would argue it is relevant.
12 MR. FLANGAS: Okay. So my objection to this is not on
13 authenticity, for the record, but it's on relevancy and hearsay.
14 First, it is not relevant. Relevancy is a fact of
10:34AM 15 consequence that would tend to make something more or less
16 probable.
17 The fact that the Board sent a letter out doesn't
18 matter. What matters here is there's an operative document,
19 charging document, which is the Second Amended Complaint.
10:34AM 20 So whether the Board sent the letter out or not has no
21 tendency to make more or less probable whether Dr. Maryanne
22 Phillips went ahead and practiced medicine or knew that the place
23 was unlicensed or kept medical records, et cetera. So you got
24 that.
10:35AM 25 Second thing, one of the biggest things is it's rife

1 with a lot of hearsay. And I know that it might be lax, but I
2 mean, we have stuff that I don't even know is true, I don't
3 believe is true, and it's allegations from a daughter, looks like
4 it's a daughter of the patient, maybe, and it cannot be allowed in
10:35AM 5 for the truth of the matter.
6 I understand that, you know, you have a letter that, you
7 know, could be brought in maybe for the fact it was sent to see
8 what response you get, but it's still a hearsay and it's not
9 relevant to this. It does not really move the case along.
10:35AM 10 Thank you.
11 THE HEARING OFFICER: Okay. And the irony here is that
12 I agree with most of your objection. I'm going to let it in but
13 I'll tell you why I'm letting it in, because I totally agree,
14 there's a bunch of allegations here, unproven as we sit here.
10:36AM 15 There's a Second Amended Complaint, which is what we're here all
16 about, right? And this was very, very preliminary to all of that.
17 The reason I'm letting this in, even though you're
18 right, it's a bunch of allegations, unproven at this moment, and
19 it's full of hearsay, is because -- I'm letting it in as
10:36AM 20 essentially a paper trail document that's going to take us through
21 the IC's case.
22 But, as I've said off the record, we're big kids here,
23 we've been around the block. And I am not going to allow anything
24 in that letter to prejudice me in any way because I understand
10:36AM 25 what it is. It's an allegation letter. It's the very, very start

1 of the IC and the Board's case. And whether or not any of the
2 allegations in the Second Amended Complaint are going to be proven
3 or not, we don't know, but I'm just letting it in for paper trail,
4 because I think it's part of the building blocks of their case.
10:37AM 5 So that's why -- that's why 4 will be admitted over
6 objection.
7 MR. FLANGAS: Okay. It will be admitted for -- it's not
8 going to be admitted for the truth of the content therein; it's
9 just for the fact, for the facts that it was actually sent out?
10:37AM 10 THE HEARING OFFICER: Exactly.
11 MR. FLANGAS: So not for the truth.
12 THE HEARING OFFICER: Absolutely.
13 And, again, I agree with you that the document that
14 really matters here when it comes to levelling allegations is the
10:37AM 15 Second Amended Complaint.
16 So, like I say, I see that as part of the Board's paper
17 trail and nothing more at this point.
18 MR. FLANGAS: Okay. I mean, not okay for the record,
19 but understood.
10:37AM 20 You've really got to watch when you are thinking off the
21 record.
22 THE HEARING OFFICER: That's right.
23 (Exhibit 4 admitted into evidence.)
24 THE HEARING OFFICER: All right. Mr. White.
25 ///

1 BY MR. WHITE:

2 **Q Ms. LaRue, I would like you to turn to Exhibit Number 5.**

3 A Okay.

4 **Q Are you familiar with what this document is?**

10:38AM 5 A Yes.

6 **Q What is it?**

7 A This is a second request for response to the original

8 allegation.

9 **Q I'll just say, I'll represent, you did not send this**

10:38AM 10 **letter, correct?**

11 A I did not sent this letter, no.

12 **Q This is also Ms. Friedman who sent this?**

13 A Correct.

14 **Q However, you have -- have you sent second requests**

10:38AM 15 **before?**

16 A Yes.

17 **Q And why does that come into play?**

18 A This letter is sent out, we -- in the original

19 allegation letter that we send, we give a specific time period

10:38AM 20 where we ask for a response.

21 When we don't receive a response within that noted time

22 period we send out a second request for a response to the original

23 allegation.

24 **Q If you turn back to page 18 in Exhibit 4, how long did**

10:39AM 25 **Respondent have to send back records?**

1 A The order for -- to produce medical records was 30 days
2 of service.
3 **Q Okay. So what is the date on what's been now admitted**
4 **as Exhibit 4, what is the date at the top of the letter, page 15,**
10:39AM 5 **at least the date that it was written?**
6 A March 19th, 2021.
7 **Q And then if you turn back to Exhibit 4 -- or 5, please.**
8 **What is the date on the -- what is that letter dated, that second**
9 **request letter?**
10:40AM 10 A April 22nd, '21.
11 **Q So is that more than 30 days?**
12 A More than the allotted 30 days, correct.
13 **Q Now I want to take you through this. Sometimes, I**
14 **understand, speaking in general terms, since you're an**
10:40AM 15 **investigator and you have been one for a while, do the doctors or**
16 **the actual respondents always have their own records ready to be**
17 **sent in?**
18 A Not necessarily, no. Not all physicians are custodians
19 of the records that we're asking for.
10:40AM 20 **Q So what would normally take place if that occurs?**
21 A If that occurs, then we would send a request out to the
22 location of who would be the custodian of records, be it a
23 hospital or surgery center or another physician.
24 Sometimes the physicians don't work for the facilities
10:41AM 25 anymore, so we have to send it out to a previous employment area

1 or something like that.

2 **Q Would you say that is somewhat common?**

3 A Yes, that is common.

4 MR. WHITE: So I move to admit Exhibit 5, as

10:41AM 5 Ms. LaRue -- I know, again, it wasn't objected to on foundation or

6 anything like that, but I think it was relevancy, again.

7 I think it kind of goes along, it goes along with the

8 one, Exhibit 4 that was just admitted. It's a follow-up and it's

9 really the policy of the office to do that, investigators do that

10:41AM 10 quite often, and also that there's obviously some testimony now,

11 that it's not always the doctor's fault or the licensee's fault.

12 THE HEARING OFFICER: And Mr. Flangas?

13 MR. FLANGAS: Just I object to it as far as the truth of

14 anything, but, you know, but the fact it was sent out is fine.

10:42AM 15 THE HEARING OFFICER: All right. And so I'll admit it

16 over objection.

17 The other thing I want to say here is, also, is that I'm

18 recognizing a bunch of these exhibits because they were admitted

19 in the prior, in the extension of the suspension hearing, so I'm

10:42AM 20 actually familiar with some of them and they are already in the

21 record, at least in that hearing, to the extent that it's

22 obviously connected to this hearing.

23 So 6, excuse me, 5 is admitted; but, again, it's part of

24 the paper trail of the Board's case. And it doesn't really repeat

10:42AM 25 all of the allegations that were in the original letter, it's just

1 showing us that the Board followed up when they didn't get a
2 response to the prior exhibit.
3 MR. FLANGAS: Okay.
4 (Exhibit 5 admitted into evidence.)
10:43AM 5 BY MR. WHITE:
6 **Q Ms. LaRue, can you take a look at Exhibit 6, please.**
7 A Okay.
8 **Q What do you see there?**
9 A This looks like a response letter from an attorney.
10:43AM 10 **Q Now, is it addressed to you?**
11 A No.
12 **Q All right. What is the date at the top of that letter?**
13 A May 19, 2021.
14 **Q Now, do you see a part where it says "regarding"?**
10:44AM 15 A Correct.
16 **Q What does that say there? Is that this matter?**
17 A Yes, this is the response to the allegation in Exhibit 4
18 and 5.
19 **Q Now, I'll ask you in general terms, is -- we often get**
10:44AM 20 **responses from attorneys if the licensee is represented.**
21 A Yes.
22 **Q And this is in response to what?**
23 A This is in response to the allegations that were
24 presented in the letter that was sent by Senior Investigator
10:44AM 25 Friedman.

1 **Q And I'll ask you, also in general terms, do you**
2 **sometimes get phone calls from -- and I'm not saying it happened**
3 **here. Actually, I don't want to paint that at all -- but**
4 **sometimes, in general terms, do you get phone calls from attorneys**
10:45AM 5 **asking for an extension of time to respond?**
6 A Yes, that's common.
7 **Q And do you typically grant those or go to somebody who**
8 **can grant those?**
9 A Yes.
10:45AM 10 **Q And if you know, why does it become part of your**
11 **investigation file, these responses that attorneys write?**
12 A Well, this would be the opportunity for the physician,
13 the respondent, to respond to the allegations that we received so
14 that there can be a clear path for the IC, so that they can
10:46AM 15 determine what kind of, or if any, action needs to be taken.
16 MR. WHITE: I'll move to admit Exhibit 6 as this is just
17 something that the Board commonly relies upon in the conduct of
18 their affairs.
19 It's relevant as to the paper trail that we've been
10:46AM 20 talking about. And, yeah, obviously there's some hearsay in here,
21 but again, it's relaxed in this situation and I think it should be
22 at least given the weight, and also it kind of explains where
23 we're going with this paper trail, that the IC needed to
24 investigate.
10:47AM 25 THE HEARING OFFICER: Mr. Flangas?

1 MR. FLANGAS: Yeah, for the record, I object to
2 Exhibit 6 on two grounds.
3 One is, which, you know, the tribunal understands, the
4 relevance issue, that it's not the charging document.
10:47AM 5 But second is on the hearsay ground. This is written by
6 Ms. Lyn Beggs, and although she gets it mostly right, there's lots
7 of hearsay in there that she gets wrong.
8 And there's no evidence that at this time Maryanne even
9 reviewed this letter before it went out, to correct, you know,
10:47AM 10 some of the parts that are wrong on it.
11 And so for the truth of the matter asserted, it's
12 not --- it's hearsay and it shouldn't be let in.
13 With that being said, I think Mr. White, when
14 Ms. Maryanne starts testifying, Mr. White can cross on the letter
10:48AM 15 and, you know, ask questions regarding the letter.
16 THE HEARING OFFICER: All right. Here's what I'm going
17 to do. This essentially was provided by Dr. Phillips' prior
18 counsel.
19 Her current counsel doesn't want it in. And so I'm --
10:48AM 20 and, again, full disclosure, it was previously admitted when I
21 heard -- I remember this letter from the prior hearing. But now
22 that she's here with new counsel, I am going to exclude the
23 letter, but you can use it during your examination of
24 Dr. Phillips, if you choose to.
10:48AM 25 So 6 is not admitted, at least not at this time.

1 MR. WHITE: With your indulgence for one minute.
2 THE HEARING OFFICER: You bet.
3 BY MR. WHITE:
4 **Q Ms. LaRue, would you talk a look at Exhibit 7.**
10:50AM 5 A Okay.
6 **Q Did you have a second to look at it?**
7 A Uh-huh.
8 **Q What does that letter appear to be?**
9 A It appears to be a letter to the pharmacy board from
10:50AM 10 Dr. Borromeo.
11 **Q Okay. And who is it addressed to?**
12 A It's addressed to Dena McClish. She's an investigator
13 with the Nevada State Board of Pharmacy.
14 **Q Do you know her?**
10:51AM 15 A Yes, I'm aware of who Dena is.
16 **Q If you know, has she been an investigator for the Board**
17 **of Pharmacy for --**
18 A Yes.
19 **Q -- a few years?**
10:51AM 20 A Yes, quite a few years, probably as long as I've been an
21 investigator with the Nevada State Medical Board.
22 **Q What was that, again?**
23 A 16 and a half years.
24 **Q And, in general terms, do we sometimes, as agencies,**
10:51AM 25 **share what an investigation gleans?**

1 A Yes.

2 **Q Now, I know you don't know because it's not addressed to**

3 **you, but is it common to sometimes end up with evidence like this**

4 **that doesn't even -- is not addressed to us, not to us? Do we end**

10:52AM 5 **up with those sorts of things?**

6 A Yes, during the course of an investigation, information

7 can be discovered or shared by other agencies, yes.

8 **Q And if you know, was Dr. Borromeo involved with Vida**

9 **Spa?**

10:53AM 10 A Yes.

11 MR. WHITE: I'm going to move to admit Exhibit 7.

12 THE HEARING OFFICER: Mr. Flangas?

13 MR. FLANGAS: Yeah.

14 First, this is really rife with hearsay. I -- he even

10:53AM 15 says -- well, okay. Let's start over.

16 Let's talk about relevancy.

17 Maryanne Phillips is not being charged with any -- this

18 talks about controlled substance, right? She's not being charged

19 with that in the complaint; okay? There's no accusation she did

10:53AM 20 it, because, in truth and fact, she never did it.

21 It was in a different room. It was downstairs. The

22 procedural room was upstairs.

23 Tammy Hankins worked for Dr. Borromeo. Dr. Borromeo,

24 you'll see through the evidence, Dr. Borromeo is the one who wrote

10:53AM 25 the scripts, did everything.

1 They would take the pills like that night and the next
2 morning -- okay. That's the controlled substance we're talking
3 about.
4 We're not talking about, and I didn't want you to -- I
10:54AM 5 don't think you have any confusion -- the propofol, which is in
6 the operation.
7 So at the end he states that the medications which are
8 accepted by Vida Spa facilities, he's telling the procedure,
9 administered to the patient shortly before scheduled procedure.
10:54AM 10 And he says it's done by the nurse assisting, but the procedure
11 are Dr. Maryanne Phillips.
12 There's zero evidence, all the witnesses you are going
13 to listen to, Maryanne Phillips never did that. Matter of fact,
14 the State is not even alleging she did that. So that's why it's
10:54AM 15 not relevant, shouldn't be brought in.
16 And then also it's hearsay, because even if you look at
17 the words he's using, he's saying, look, this is a general
18 procedure.
19 THE HEARING OFFICER: Is Dr. Borromeo expected to
10:54AM 20 testify in this hearing?
21 MR. WHITE: Their witness, so, yeah.
22 MR. FLANGAS: I have him subpoenaed, yeah.
23 MR. WHITE: And we actually have -- we can call him too
24 because we have -- as, I think Mr. Flangas does too, we have a
10:55AM 25 catchall, that any witness they call, we can call also.

1 THE HEARING OFFICER: Okay. I, for the reasons stated
2 in the objection, I'm not going to admit it at this time. But if
3 he does testify, it's going to be open game as to whether --
4 MR. FLANGAS: Yeah.
10:55AM 5 THE HEARING OFFICER: -- it's still on the table.
6 MR. FLANGAS: Okay. That's fine.
7 MR. WHITE: Indulgence, please.
8 I'm trying to figure out if 51 and 7 -- or excuse me 51
9 and 8 are the same. They are just out of order so it's taking me
10:57AM 10 a second here, but I'll go through 8 anyway.
11 MR. FLANGAS: You know, I'm not objecting to 8.
12 MR. WHITE: Oh, I'm sorry, did I write that wrong?
13 THE HEARING OFFICER: Eight is in. And it's 9 as your
14 next --
10:57AM 15 MR. WHITE: Oh, I'm sorry, after all of that.
16 MR. FLANGAS: I'll tell you what, you know, to speed
17 things along, I'm looking at 9. I don't object to the fact that
18 this was sent out, just the truth in content, I would be objecting
19 to.
10:57AM 20 So with that limited objection, you know, the tribunal
21 could admit it.
22 MR. WHITE: Which one is that?
23 THE HEARING OFFICER: That's 9, which is the State
24 Boards of Pharmacy's letter from their counsel.
10:58AM 25 MR. FLANGAS: You know what, I have no objection to

1 that.

2 THE HEARING OFFICER: I was just going to say, based on

3 the objection you're making, I'm going to admit nine.

4 MR. FLANGAS: Yeah, let's do that.

10:58AM 5 MR. WHITE: Eight is in. Nine. Okay. I'd written over

6 that. Nine is in?

7 THE HEARING OFFICER: Nine is in.

8 (Exhibit 9 admitted into evidence.)

9 THE HEARING OFFICER: So then the next one that's not

10:58AM 10 in, is 48.

11 MR. WHITE: Okay.

12 BY MR. WHITE:

13 Q Ms. LaRue, I'll have you turn to Exhibit 48. I think

14 that's in the second binder.

10:59AM **15 Have you had a chance to look at that?**

16 A Uh-huh.

17 Q What does Exhibit 48 appear to be?

18 A Looks like a letter directed to Dr. Phillips. It's a

19 cease and desist order from the Department of Health and Human

10:59AM 20 Services.

21 Q What's the date on that?

22 A July 2nd, 2021.

23 MR. FLANGAS: You know, I'm not going to have any

24 objection to 48.

10:59AM 25 THE HEARING OFFICER: All right. So 48 will be admitted

1 upon stipulation.

2 (Exhibit 48 admitted into evidence.)

3 THE HEARING OFFICER: That's going to take us to 90.

4 MR. FLANGAS: 91.

10:59AM 5 THE HEARING OFFICER: Oh, I'm sorry, you are right, 90

6 is in. 91.

7 BY MR. WHITE:

8 Q Ms. LaRue, could you please turn to Exhibit 91.

9 A Uh-huh.

11:00AM **10 Q And what does Exhibit 91 look like to you?**

11 A This is a letter from Lyn Beggs to you and Mr. Fricke in

12 regards to Ms. Beggs notifying that she will no longer be

13 representing Dr. Phillips.

14 Q I'm sorry. Hold on one second. Mine is taking a little

11:00AM **15 long to get ahold of.**

16 A You said 91, right?

17 Q I did, and you are right. That is what I'm trying to

18 question you on.

19 Your book is right. Mine doesn't seem to be.

11:01AM 20 THE HEARING OFFICER: And I can shortcut this process

21 right here. We're going to -- I'm not going to admit 91.

22 MR. WHITE: Okay. The next one is?

23 MR. FLANGAS: 98 is the transcript.

24 BY MR. WHITE:

11:01AM **25 Q Turn to 98, please.**

1 MR. FLANGAS: While Mr. White is looking for it, you
2 know, this is part of the Court's record. It's just whether it's
3 going to be an exhibit or not.
4 THE HEARING OFFICER: Right. It is the record, right?
11:02AM 5 MR. FLANGAS: It is.
6 THE HEARING OFFICER: Up until today.
7 And so why don't -- what is the basis of your objection
8 as to the transcript being an exhibit?
9 MR. FLANGAS: Just -- well, it's part of the record.
11:02AM 10 And it occurred back on -- what was the date, last year?
11 THE HEARING OFFICER: It's August 18th of last year.
12 MR. FLANGAS: So you know what? I'm not going to have
13 any objection to it.
14 THE HEARING OFFICER: So 98 will be in. I was going to
11:02AM 15 admit it in any event. Full disclosure.
16 (Exhibit 98 admitted into evidence.)
17 MR. FLANGAS: And then 99, that's part of the court
18 record also.
19 THE HEARING OFFICER: Correct.
11:02AM 20 MR. FLANGAS: It's just that I don't think it's relevant
21 as to whether the charging document right now, you know, as far as
22 evidence goes for the charging document, and for you as, you know,
23 as our judge and hearing master, to make a determination. There's
24 no relevance as to what occurred prior. That's my argument.
11:03AM 25 THE HEARING OFFICER: Okay. And that's an official

1 order, so I'm going to overrule and 99 is going to be admitted.
2 But I, again, I'm going to clarify the record. I
3 haven't looked back at that order in a good while, it's over a
4 year old. And it will not prejudice this hearing today.
11:03AM 5 MR. FLANGAS: Okay.
6 (Exhibit 99 was admitted into evidence.)
7 MR. WHITE: You know -- and it shouldn't, actually.
8 Obviously there's a different standard of proof in a summary
9 suspension hearing and, you know, it is what it is.
11:04AM 10 We're now here in this hearing to determine what's going
11 to happen going forward, as Mr. Flangas said before.
12 THE HEARING OFFICER: And just to refresh my
13 recollection, Dr. Phillips didn't have counsel at that hearing; is
14 that correct?
11:04AM 15 MR. WHITE: No counsel, and I don't believe Dr. Phillips
16 appeared either.
17 THE HEARING OFFICER: That's what I recall.
18 And that doesn't change what has happened, to date,
19 because we can't go back in time, but today is a horse of a bit of
11:04AM 20 a different color, and so it's being treated as such.
21 MR. FLANGAS: Okay.
22 MR. WHITE: And I would also say that, just so
23 Mr. Flangas is aware, whether this is an exhibit or not --
24 THE HEARING OFFICER: It's in the record.
11:04AM 25 MR. WHITE: -- it's in the record as a filed document,

1 so anything that's filed, it's just like anything in a court
2 proceeding at the District Court or something, they're all going
3 to be somehow part of the record.
4 THE HEARING OFFICER: Right. And there's judicial
11:05AM 5 notice, et cetera, that applies here, by analogy, so -- all right.
6 So that takes us then to 103 is the next one that's not
7 in, as far as I can see.
8 BY MR. WHITE:
9 Q Ms. LaRue?
11:05AM 10 A Uh-huh.
11 Q Will you please turn to Exhibit 103?
12 A All right.
13 THE HEARING OFFICER: And Exhibit 103 is the First
14 Amended Complaint filed back July 20th, 2021.
11:05AM 15 MR. WHITE: Yeah. I'm going to ask Ms. LaRue a
16 question.
17 BY MR. WHITE:
18 Q Is this complaint, this First Amended Complaint, is this
19 against -- well, actually, let me ask you. What is this document?
11:05AM 20 A It's a first amended complaint against Tammy Lynn
21 Hankins, PA-C.
22 Q So it's not against Dr. Phillips?
23 A No.
24 Q Okay. Let me ask you this -- I don't know. Was this
11:06AM **25 one of your cases?**

1 A No, it was not.

2 **Q Have you ever seen complaints, first amended complaints,**

3 **second amended complaints --**

4 A Yes.

11:06AM 5 **Q -- in your experience with the Board?**

6 A Oh, yes.

7 **Q If you know, was Tammy Hankins also employed, somehow**

8 **involved with Vida Spa?**

9 A Yes, she was.

11:07AM 10 **Q I would point you to page 2569, which is the first page**

11 **of this first amended complaint.**

12 A Uh-huh.

13 **Q After Tammy Lynn Hankins, there's a comma. What is**

14 **that? What is her title?**

11:07AM 15 A PA-C, which stands for Physician Assistant.

16 MR. WHITE: I'll move to admit 103, Exhibit 103.

17 THE HEARING OFFICER: Mr. Flangas?

18 MR. FLANGAS: I think it's strictly based on relevancy

19 at this time. This has to do with Tammy Hankins, has nothing to

11:08AM 20 do with -- and it's allegations in the complaint.

21 And then the next one is an order, because I guess she

22 didn't show, and I don't see how it's relevant in these

23 proceedings.

24 THE HEARING OFFICER: So, Mr. White, again, we already

11:08AM 25 know from what we've heard today, that Ms. Hankins was one of the

1 other, apparently to some extent, key people at Vida Spa.
2 How is the complaint against her, and then in 104 the
3 next exhibit, which is the Findings of Fact, Conclusions of Law
4 and Order in the Tammy Lynn Hankins case, how are those relevant
11:09AM 5 to what we're doing here in a way that is not prejudicial?
6 MR. WHITE: Well, it's not prejudicial because it's not
7 something that Dr. Phillips did, and we're not accusing her of
8 being the person that did the liposuction.
9 I think it was mentioned in opposing counsel's opening
11:09AM 10 that Tammy Lynn Hankins was the one who did the liposuction on
11 Patient TTT, which we'll talk about throughout this hearing. So I
12 thought it would just be something to help clarify the record for
13 the Hearing Officer, for -- and for the Board, but no intention of
14 prejudicial evidence against her.
11:09AM 15 I don't even -- I couldn't tell you if it mentions
16 Dr. Phillips in here at all. I don't know.
17 THE HEARING OFFICER: Do you want to make any reply?
18 MR. FLANGAS: You know, it's like six to one, half a
19 dozen to the other, because it does show that she did liposuction,
11:10AM 20 but you're going to have plenty of testimony that tells you that.
21 I think it's not prejudice -- of course, we're supposed
22 to present evidence that's prejudice -- but it's unfair prejudice,
23 because it shows, you know, she was charged with it. I don't
24 know.
11:10AM 25 I just don't think it's relevant. You know, how's --

1 you're looking at this and say, okay, guess what, now Maryanne,
2 you know, she should have known about the records or she should
3 have known about the lipo, you know. And it's hearsay, to boot.
4 So, I mean, we could kind of put it out there and not
11:10AM 5 admit it now and see how things progress, to see if --
6 THE HEARING OFFICER: That's what I'm inclined to do.
7 Is there anything in 103 or 104 that tends to prove or disprove
8 anything in this case?
9 MR. WHITE: Well, it just shows that -- I think we have
11:10AM 10 a situation where the overall story, and I don't think it's
11 prejudicial at all, I think it's sort of res gestae, in that Vida
12 Spa was operating and there were a lot of things going wrong
13 there.
14 There was a point in time, and it's in here, where
11:11AM 15 Ms. Hankins -- and again, I'm not accusing Dr. Phillips of knowing
16 anything about this, but there was a time she was practicing
17 before she even had a license, and then came to the Board and got
18 a license during the March 20 board meeting, and came before the
19 Board and got a license.
11:11AM 20 Again, not accusing Dr. Phillips of knowing how -- you
21 know, how would she know about that? She wouldn't.
22 But it's sort of a res gestae thing where it's trying to
23 tell the whole story of this Vida Spa and how they operated.
24 THE HEARING OFFICER: I get it. And essentially, that's
11:11AM 25 why I admitted some of the earlier documents which I said were

1 essentially building blocks of the IC's case.

2 Let me ask you this before I tell you what I'm inclined

3 to do here.

4 MR. FLANGAS: And I'd like to respond after that.

11:12AM 5 THE HEARING OFFICER: Okay.

6 105 and 106 are essentially the same documents, but

7 pertaining to Dr. Borromeo; correct?

8 MR. WHITE: Correct.

9 THE HEARING OFFICER: Is there any different, unique

11:12AM 10 arguments to those documents that are different from what we're

11 talking about here with respect to Ms. Hankins?

12 MR. WHITE: Well, yeah, there is, in a way, because --

13 well, Ms. Hankins was in the surgery room.

14 Borromeo, you know, as far as we know, he was the

11:12AM 15 medical director for about a month, or less, and --

16 Dr. Borromeo -- and I don't know if he ever showed up there, other

17 than maybe to sign some things, or not even that. Maybe they took

18 it to him to sign things, like possibly sign a prescription or

19 something, or just kind of get something they needed done, some

11:12AM 20 paperwork done.

21 MR. FLANGAS: You know, I mean that's a true assessment.

22 Dr. Borromeo, we don't even know if he was ever there. Okay?

23 You know, that tends to show, like when we were talking

24 about that previous exhibit where he said this is how it went

11:13AM 25 down.

1 As a matter of fact, Dr. Borromeo didn't even know,
2 according to him, that Tammy Hankins was doing liposuction.
3 That's his testimony.
4 My response is, on Tammy Hankins, you asked him, okay,
11:13AM 5 what's in these documents that would have a tendency to make more
6 probable your case against Dr. Maryanne. And the response was,
7 it's the overall general feel that Hankins was practicing before
8 she even had a license.
9 So that's clearly unfair prejudice that we're trying to
11:13AM 10 assess and that's why it just needs to get thrown out. It's not
11 the meat and guts of Mr. White's case anyway.
12 The same thing with Borromeo. Borromeo, I think we
13 could use these documents when he's testifying, Mr. White could,
14 you know, use the documents, but otherwise it's not relevant.
11:14AM 15 THE HEARING OFFICER: All right. I'm going to, on 103,
16 104, 105 and 106, I'm going to reserve those. I'm not going to
17 exclude them, but I'm not admitting them yet. I understand the
18 res gestae argument. And again, that's essentially why I admitted
19 some of the earlier exhibits, like the allegation letter,
11:14AM 20 et cetera. They may come in, but I'm not ready to admit them yet.
21 And then we go to 107, 108 and 109.
22 MR. WHITE: Those will -- actually 107, 108 and 109,
23 I'll just have to get in with Dr. Janes, if -- well, I guess I
24 should -- yeah, I'll only be able to get those in with him.
11:15AM 25 That's fine.

THE HEARING OFFICER: We'll hold off on those until he's here, he or she.

MR. FLANGAS: Okay.

THE HEARING OFFICER: All right.

11:15AM MR. WHITE: All right. Let me move more toward some more specific questions for Ms. LaRue.

MR. FLANGAS: Could we --

MR. WHITE: Do you want to break?

MR. FLANGAS: Yeah, could we take a quick break? And

11:15AM then when we go off the record maybe talk about timing? Because I need to know what you want me to do with these witnesses. Do you want me to have them come in, just run through them this afternoon, or if Mr. White wants me to tell them to come tomorrow?

THE HEARING OFFICER: Let's go off the record.

11:16AM (A discussion was held off the record.)

THE HEARING OFFICER: Why don't we take five.

(A recess was taken.)

THE HEARING OFFICER: We're good to go.

BY MR. WHITE:

11:33AM **Q Ms. LaRue, I'll ask you to turn to Exhibit 51. It's been admitted.**

MR. WHITE: Sorry, I've got to run and get my glasses to see some of this stuff. I'll be right back.

(Pause in proceedings).

///

1 BY MR. WHITE:

2 **Q Are you there, Ms. LaRue?**

3 A Uh-huh.

4 **Q We don't need to authenticate this; it has been**

11:34AM 5 **stipulated to admission.**

6 **I would ask you to turn to page 1105 of Exhibit 51.**

7 A Okay.

8 **Q I just want to ask you some questions about that.**

9 **Looks like we have what appears to be a prescription.**

11:35AM 10 **Would that be correct?**

11 A It looks like a prescription -- like a prescription pad,

12 yes.

13 **Q Okay. And can you name -- can you tell us the name of**

14 **the company that appears to be on that pad?**

11:35AM 15 A BioNeutraceutical Health Solutions. I should have

16 brought my glasses.

17 Yes, Bioceutraneutical (phonetic spelling) --

18 MR. MILLER: BioNeutraceutical.

19 THE WITNESS: -- -Neutraceutical -- sorry -- Health

11:36AM 20 Solutions.

21 MR. FLANGAS: You know what? Can we stop one minute and

22 go off the record? Because I have a situation I need to explain.

23 THE HEARING OFFICER: Sure. Let's go off the record for

24 a moment.

11:36AM 25 (A discussion was held off the record.)

1 (Dr. Miller left the hearing room.)
2 THE HEARING OFFICER: All right. So back on the record.
3 A little bit of housekeeping was handled off record, and
4 Dr. Miller was excluded from at least this part of the hearing
11:37AM 5 because of his significant, I don't know if it's ownership, but
6 certainly high-ranking official at -- what was the name of this
7 company?
8 MR. WHITE: BioNutraceuticals --
9 THE HEARING OFFICER: Correct.
11:37AM 10 MR. WHITE: -- Health Solutions.
11 THE HEARING OFFICER: And that just popped up as
12 Ms. LaRue was testifying about that.
13 So with him out of the room, go ahead, Mr. White.
14 MR. WHITE: Okay.
11:37AM 15 BY MR. WHITE:
16 Q And do you see a name on -- below that company name?
17 A Yes.
18 Q What is that name?
19 A Maryanne Phillips, M.D.
11:38AM **20 Q What does it sate her title is?**
21 A Medical director.
22 Q Okay. And I'll represent, this is -- these are all
23 photos that were taken when Ms. Friedman paid a visit to Vida Spa.
24 They are all together.
11:38AM **25 I'll ask you to take a look at page 1108.**

1 A Okay.

2 **Q What is that picture?**

3 A It's a picture of a prescription bottle.

4 **Q And is there a name on there?**

11:39AM 5 A Yes, Dr. Phillips, comma, Maryanne.

6 MR. FLANGAS: What page number? I'm sorry.

7 MR. WHITE: 1108.

8 BY MR. WHITE:

9 **Q I'll ask you to turn to page 1110. I don't want you to**

11:39AM 10 **read the patient's name. It's pretty clear there. What does this**

11 **appear to be?**

12 A It appears to be a prescription. It's a prescription

13 bottle.

14 **Q For -- do you know how to say that? What is it?**

11:39AM 15 A Clindamycin.

16 **Q Can you make out, on the very right there, a last name?**

17 A Phillips.

18 **Q Thank you. And then turn to the next page, which is**

19 **1111. Looks like there are more pictures of prescription bottles.**

11:40AM 20 **The one on the left, do you see a name, kind of in the**

21 **top right there?**

22 A Yes, Phillips.

23 **Q Page 1113.**

24 **I just wanted to know, what do you see in that picture,**

11:41AM 25 **that kind of middle bottle there?**

1 A It's a bottle of propofol.

2 **Q I want you now to turn to page -- sorry, Exhibit 11.**

3 A Exhibit 11?

4 **Q 11, yes.**

11:42AM 5 MR. WHITE: I'll wait for her, Mr. Flangas.

6 MR. FLANGAS: I'm good.

7 BY MR. WHITE:

8 **Q You okay?**

9 **So I'll represent, Ms. LaRue, this was stipulated to**

11:43AM 10 **admission, so it has been admitted now.**

11 A Uh-huh.

12 **Q Can you tell us, at least what you see here, what is**

13 **this thing called?**

14 A It's a sedation log sheet.

11:43AM 15 **Q Okay. And do you see dates in the very left column?**

16 A Yes.

17 **Q Okay. And also do you see the medication that was being**

18 **logged?**

19 A Yes.

11:43AM 20 **Q And if you can look through all four pages here, what is**

21 **every medication that's being logged?**

22 A Propofol.

23 **Q On every one of them?**

24 A Yes.

11:43AM 25 **Q You also see some names. I don't want you to read them**

1 **out. Do you see some names too?**
2 A Yes.
3 **Q Okay. Now, I want you to take a look on page 48, and**
4 **the second person down.**
11:44AM 5 A Um-hm.
6 **Q And then you can hold that there, or you don't have to,**
7 **but I want you to go to Exhibit 40 also.**
8 A Exhibit 40?
9 **Q Yeah, which is probably in a separate book.**
11:44AM 10 A Okay.
11 **Q Are you there?**
12 A Yeah.
13 **Q Okay. I just want you to answer me, on this, does that**
14 **appear to be the same name of the person that's in the sedation**
11:45AM 15 **log? Do they match?**
16 A You said line -- the second person, second patient down
17 on page 48 does not match the person whose name is on page 807 of
18 Exhibit 40.
19 Sorry, I'm in Exhibit 39. Sorry. Never mind.
11:45AM 20 Yes, that would be correct, those -- page 845 of
21 Exhibit 40 matches the person whose name is listed as the second
22 patient on page 48.
23 **Q Okay. Thank you. What are we looking at in -- again,**
24 **this has also been admitted. What are we looking at on page 845,**
11:45AM 25 **which is the first page of Exhibit 40?**

1 A This is a surgical procedure record.

2 **Q Okay.**

3 A For the patient.

4 **Q And I need you to turn to page 849.**

11:46AM 5 A Okay.

6 **Q Do you see a signature?**

7 A Yes.

8 **Q Okay. And it looks like there are actually a couple of**

9 **signatures. I'm specifically thinking of the one circled in the**

11:46AM 10 **middle there.**

11 **Do you see where there's something circled?**

12 A Yes.

13 **Q What is circled?**

14 A M.D.

11:46AM 15 **Q What does it appear that signature says?**

16 MR. FLANGAS: I'm sorry, what page are you on?

17 MR. WHITE: 849.

18 THE HEARING OFFICER: 849. Exhibit 40.

19 MR. FLANGAS: Thank you.

11:46AM 20 THE WITNESS: It appears that the signature says

21 M. Phillips.

22 BY MR. WHITE:

23 **Q And also there's a line drawn too. Do you see that?**

24 A Yes.

11:47AM 25 **Q After the signature?**

A Uh-huh.

Q And what does that line appear to be underneath?

A "Anesthesiologist."

Q And I'm apologizing in advance, everyone. I'm going to
11:47AM **be jumping around a little bit, but we'll always be heading back to 11.**

So I want you to look at Exhibit 45.

A Okay. New binder.

MR. FLANGAS: Exhibit 45?

11:47AM MR. WHITE: Yes.

THE WITNESS: Okay.

BY MR. WHITE:

Q Okay. I want to see -- I want you to go to page -- if you can hold that page and also take a look at the seventh person
11:48AM **down on page 47 of Exhibit 11. I just want -- the question is do those names appear to be the same?**

A Yes.

Q And again, were you looking at a surgical procedure record just like before?

11:48AM A Yes, a surgical procedure record for the patient.

Q Okay. Now, you know, I meant to ask on the last one too --

MR. FLANGAS: I'm sorry, I lost you.

We're on Exhibit 47; is that correct?

///

1 BY MR. WHITE:

2 **Q 45.**

3 A 45. Page 991 A.

4 MR. FLANGAS: Okay. Got it.

11:49AM 5 BY MR. WHITE:

6 **Q First of all, I would like you to look through all the**

7 **pages here and I want you to specifically look for the word**

8 **"propofol" and let me know if you see it.**

9 MR. FLANGAS: All the pages where, for the record?

11:49AM 10 MR. WHITE: I'm sorry, in 45.

11 BY MR. WHITE:

12 **Q Are yours listed as 991 A, everyone? Or do I have a**

13 **different --**

14 A Yeah, 991 A, the first page.

15 **Q Okay. First page?**

16 A Yeah.

17 THE HEARING OFFICER: Until you get to 997, then the A

18 drops off.

19 MR. WHITE: Okay. Good.

11:51AM 20 THE WITNESS: Okay. I've reviewed all the pages in

21 Exhibit 45 and I don't see the word "propofol" listed.

22 BY MR. WHITE:

23 **Q Okay. Yet it is listed that this person received**

24 **propofol in Exhibit 11, correct?**

11:51AM 25 A Yes, it's on the sedation log sheet.

1 **Q Okay. I hate to do this, everybody, but Exhibit 40**
2 **again, please.**
3 **I want you to see -- I want to ask you the same**
4 **question, see if you can find propofol listed in that.**
11:53AM 5 A I've reviewed every page of Exhibit 40 and there's no
6 propofol listed.
7 **Q Okay. As before, this person does appear in the**
8 **sedation log, correct?**
9 A Correct.
11:53AM 10 **Q And they have propofol next to their name?**
11 A Yes.
12 **Q And back to 45, specifically page 1016.**
13 MR. FLANGAS: 1016?
14 THE WITNESS: Yes.
11:54AM 15 MR. WHITE: Oh, excuse me. I'm sorry. Let's go to
16 996 A, first.
17 BY MR. WHITE:
18 **Q Do you see, again, some litters circled near the bottom?**
19 A Yes.
11:54AM 20 **Q What is circled?**
21 A M.D.
22 **Q And what appears to be in the line right after**
23 **anesthesiologist?**
24 A M. Phillips.
11:54AM 25 MR. FLANGAS: And that's 99 --

1 THE WITNESS: 996 A.
2 BY MR. WHITE:
3 **Q And turn to Exhibit 1016, still in Exhibit 45. What**
4 **does that appear to be, that page?**
11:55AM 5 A This is a pharmacy, a list of pharmaceuticals or
6 pharmacies that were dispensed, medications.
7 **Q What is at the top of the page?**
8 A Vida Spa pharmacy form, and the patient's name, date of
9 birth, phone number, address.
11:55AM 10 **Q And there's a date on there that says "today's date."**
11 **Do you see that?**
12 A Yes, 5/22/21.
13 **Q Okay. And there's some, as you stated, there's some**
14 **medications that look like they were ordered or dispensed?**
11:55AM 15 A Yes.
16 **Q Okay. And is there a signature -- is there a place for**
17 **a signature at the bottom?**
18 A Yes.
19 **Q And what does it say below the signature line?**
11:56AM 20 A Maryanne Phillips, M.D., medical director,
21 BioNeutraceutical Health Solutions, with the address listed.
22 **Q Does that appear to be Dr. Phillips' signature?**
23 A Yes.
24 **Q Thank you. If you'll turn to Exhibit 42, I'll ask you a**
11:57AM 25 **question about page 908.**

1 A Okay.

2 **Q Again, I'm going to ask you, are there some letters**

3 **circled near the bottom?**

4 A Yes, "M.D."

11:57AM 5 **Q Looks like, above, where it says "anesthesiologist,"**

6 **what does it say there?**

7 A It looks like it says "M. Phillips."

8 **Q And I'm going to ask you just to go through these again,**

9 **if you could, like you've done the other two patients we've**

11:57AM 10 **reviewed so far, and see if you can find anything that says**

11 **propofol?**

12 A No, there's no propofol listed anywhere.

13 **Q Okay. I'll ask you to look at page 47 of Exhibit 11,**

14 **and ask -- and let me know if those names match of that patient**

11:59AM 15 **that we've been looking through their records, and is it the same**

16 **name that is on the sedation log sheets?**

17 A Yes, it's right there.

18 **Q And you've got to go down about nine.**

19 A Yes, it's there on the list.

11:59AM 20 **Q Okay. Also could you turn to 928 in Exhibit 42,**

21 **page 928.**

22 A Uh-huh.

23 **Q Are you there?**

24 A Yeah.

12:00PM 25 **Q Okay. Kind of in the interest of speeding things up,**

1 **does that look like the same Vida Spa pharmacy form that we saw**
2 **before --**
3 A Yes.
4 **Q -- in another patient?**
12:00PM 5 **Okay. And does it also say -- is it signed by**
6 **Dr. Phillips?**
7 A Yes, it is.
8 **Q Do we also have the same title below that, that she's a**
9 **medical director at BioNeutraceutical Health Solutions?**
12:00PM 10 A Yes.
11 **Q Turn to Exhibit 43, please. Go ahead and start looking**
12 **for propofol please, see if you can find it anywhere in there.**
13 A No, it's not listed.
14 **Q Okay. And I'll ask you to take a look at page 48 of**
12:02PM 15 **Exhibit 11.**
16 A There she is, yeah.
17 **Q And down about 10 people?**
18 A Uh-huh. Yes.
19 **Q Do those names match?**
12:02PM 20 A The patients are matching, yeah.
21 **Q Okay. So that person is also listed in the sedation log**
22 **sheet as having had propofol, but it's not in the medical records;**
23 **correct?**
24 A Yes, that's correct.
12:02PM 25 MR. FLANGAS: I'll object as it's not in Exhibit 43,

1 because the sedation logs are medical records.

2 MR. WHITE: Oh.

3 MR. FLANGAS: I mean, just for the record.

4 BY MR. WHITE:

12:02PM 5 **Q Well, I'll ask, I'll clarify a little more.**

6 **The sedation log --**

7 A Uh-huh.

8 **Q -- is -- is it -- is propofol listed anywhere in this**

9 **surgical procedure record --**

12:03PM 10 A No, propofol is not listed in the surgical procedure

11 record.

12 **Q -- of which we have approximately, I don't know, let's**

13 **see, 27 pages or so?**

14 A About, yes.

12:03PM 15 **Q So is it fair to say that it's kept, the propofol is**

16 **kept in a separate log sheet?**

17 A Yes.

18 MR. FLANGAS: I'll object. Foundation and personal

19 knowledge.

12:03PM 20 THE HEARING OFFICER: Foundation?

21 MR. WHITE: It's already been admitted, I think.

22 MR. FLANGAS: Let me refine that objection.

23 Objection. The question was, sedation records were kept

24 in a separate -- some separate log sheet. I'm objecting as to

12:04PM 25 personal knowledge, she wasn't there at the time, as to where the

1 sedation logs were kept --

2 THE HEARING OFFICER: Okay.

3 MR. FLANGAS: -- and whether they were with it or not,

4 or in the same file cabinet or not, or -- you know.

12:04PM 5 THE HEARING OFFICER: So that does lack foundation. So

6 if you can build that foundation, go ahead. I don't know if you

7 can or not.

8 MR. WHITE: Okay.

9 BY MR. WHITE:

12:04PM **10 Q Does -- you already answered that you didn't see**

11 propofol anywhere listed; right?

12 A Correct.

13 Q But did you see other medications listed?

14 A Yes.

12:04PM **15 Q In fact, the first page, what do you see there? If you**

16 can read those.

17 A Lidocaine. Hepane (phonetic spelling). Keflex. And

18 Ceftnaxone (phonetic spelling). I'm sorry, I'm not a doctor.

19 Thank you. I don't say it correctly, but it is --

20 DR. PHILLIPS: It's an antibiotic.

21 THE WITNESS: "Ceftnaxone," it looks like.

22 THE HEARING OFFICER: Do you want to spell that for our

23 reporter's benefit?

24 THE WITNESS: C-E-F-T-N-A-X-O-N-E.

25 ///

1 BY MR. WHITE:

2 **Q Now, no propofol listed, though?**

3 A Propofol is not listed on this first page, surgical

4 procedure record.

12:05PM 5 **Q Okay. So this log, on Exhibit 11, right?**

6 A Uh-huh.

7 **Q In your experience as a -- 16 and a half years as a**

8 **board investigator -- if someone asks for their records and all**

9 **the medications they have been on, wouldn't you normally ask for**

12:06PM 10 **everything they have been on, as part of your job as an**

11 **investigator?**

12 A Yes. The order for -- to produce medical records says

13 any and all.

14 **Q Have you ever seen other doctors that are taking over**

12:06PM 15 **care for a patient ask for medical records and medications?**

16 A Yes.

17 **Q You've seen that; correct?**

18 A Yes, that happens on a regular basis.

19 **Q Okay. And what would happen if a doctor sent this log**

12:06PM 20 **that we're looking at on Exhibit 11 --**

21 MR. FLANGAS: I'll object. Calls for speculation.

22 BY MR. WHITE:

23 **Q Do we have a -- I think we have about -- do we have like**

24 **around 59 or 60 patients listed on this?**

12:06PM 25 A I would estimate, yes, there's at least 50 patients

1 listed here.

2 **Q Okay. With their name?**

3 A Correct. Names are listed.

4 **Q Okay. So if a doctor asks for medications -- well,**

12:07PM 5 **let's go specifically with the one we have.**

6 **Patient TTT had a syncopal event. Do you understand?**

7 A I'm sorry, had a what?

8 **Q Well, you know what, let's go to that exhibit.**

9 A Would you repeat your --

12:07PM 10 **Q Will you go to Exhibit 102, please. It's been marked**

11 **and admitted.**

12 MR. FLANGAS: Just give me one minute, please.

13 One second, Don. I'm missing a book somewhere.

14 MR. WHITE: Oh, you are? Okay. I'll wait. I'll wait.

12:08PM 15 MR. FLANGAS: Oh. Okay. I'm good.

16 MR. WHITE: 102. I think I can do this.

17 BY MR. WHITE:

18 **Q I'll represent to you, Ms. LaRue, that this patient had**

19 **a syncopal event. They kind of passed out in the parking lot**

12:09PM 20 **after having a procedure by the spa.**

21 A Okay.

22 **Q In June of 2020.**

23 **Mr. Flangas's actually brought it up in his opening**

24 **statement, but just to save time, if you want me to go through it**

12:09PM 25 **all, I can, but this person went to this -- we can look at it, but**

1 **this person also went to the ER, went to the hospital.**
2 A Okay.
3 **Q Now, in your experience as an investigator, do you think**
4 **it would be important that the hospital, when she arrived, knew**
12:09PM 5 **that she could still be under general anesthesia, on propofol?**
6 MR. FLANGAS: I'm going to -- one second, Ms. LaRue.
7 I'm going to object. I don't believe her experience as
8 investigator has -- is within the scope of whether a hospital
9 should receive, you know, know about whatever medication,
12:10PM 10 propofol.
11 I'll state that common sense dictates it would probably,
12 you know, would -- that the hospital should know, but I don't
13 think her, as an investigator, would be able to give some type of
14 special knowledge to attest to that.
12:10PM 15 MR. WHITE: Fair enough. I'll get it in with an expert.
16 Or, actually, I'll let you rule first.
17 THE HEARING OFFICER: Well, I was going to ask if you
18 want to try and lay some foundation so that she might be able to
19 answer the question.
12:10PM 20 BY MR. WHITE:
21 **Q In your experience as an investigator, when someone has**
22 **a syncopal event or for some other reason they go to the hospital,**
23 **do you expect to see all medications, all the symptoms they might**
24 **be -- when you get the medical records, would you expect to see**
12:11PM 25 **all the medications that they could be on when they are admitted,**

1 **and all the symptoms what they might be experiencing at that time?**
2 MR. FLANGAS: It's the same objection. I think that's a
3 question for a doctor.
4 THE HEARING OFFICER: I'm just going to --
12:11PM 5 MR. WHITE: I'm asking her to -- hold on one second.
6 I'm asking her, would she expect to see it in her
7 investigation.
8 THE WITNESS: As part of my investigation --
9 MR. WHITE: Don't answer yet. Hold on. We've got to
12:11PM 10 get a ruling here.
11 THE HEARING OFFICER: That question is fair, if she
12 knows the answer to it.
13 MR. WHITE: If you can't answer, that's okay.
14 THE WITNESS: Oh, no. I'm allowed to answer? I just
12:12PM 15 wanted to make sure.
16 THE HEARING OFFICER: Yes.
17 THE WITNESS: As part of the investigation, yes, we
18 would expect that the records would be complete, which would
19 include if you're transferring a patient from one facility to
12:12PM 20 another in any way, all the list of medications that they are
21 taking, any previous incidences that would happen, to be -- in
22 order to be admitted safely to the ER, we have would require that
23 information to present to our medical reviewers so that they could
24 make a determination.
25 ///

1 BY MR. WHITE:

2 **Q Thank you.**

3 **Now, please turn to -- did I already do this, page 953?**

4 **Did I go through that already?**

12:13PM 5 A What exhibit are you on? I'm on Exhibit 102.

6 **Q I'm sorry, it's Exhibit 43, page 953.**

7 A Exhibit 43.

8 Okay.

9 **Q Again, I'm just going to do, for the sake of speeding**

12:13PM 10 **this up, does that look like a Vida Spa pharmacy form?**

11 A Yes.

12 **Q And does there appear to be a signature at the bottom?**

13 A Yes.

14 **Q Whose signature does it look like, from all the ones**

12:13PM 15 **you've seen so far?**

16 A Maryanne Phillips'.

17 **Q And again, does she have the same heading below?**

18 A Yes.

19 **Q -- or the same -- I'm sorry, bad question.**

12:13PM 20 **The same --**

21 A 953.

22 **Q The same title?**

23 A Yes. It's the same.

24 **Q And would you please turn to page 954 of that same**

12:14PM 25 **exhibit.**

1 A Okay.

2 **Q What does this appear to be? If you look at the upper**

3 **left area.**

4 A It's a liposuction consultation form.

12:14PM 5 **Q And without going through everything in the page, does**

6 **there appear to be a signature, bottom right?**

7 A Yes.

8 **Q Who is that signature?**

9 A M. Phillips, M.D.

12:14PM 10 **Q And I will represent that we do not have in this one.**

11 **For some reason, there is no signature page like we saw at the end**

12 **of the surgical procedure record.**

13 **I'll ask you to look. Do you see one, after two pages**

14 **of kind of numbers and things like that, do you see a signature**

12:15PM 15 **page there?**

16 MR. FLANGAS: Can you give me the page number, please?

17 MR. WHITE: It would be after -- should be maybe 935.

18 936 starts something else.

19 THE WITNESS: Yeah, there is no signature page there.

12:15PM 20 MR. FLANGAS: I'm not understanding the question, I'm

21 sorry.

22 MR. WHITE: May I clarify for Mr. Flangas?

23 THE HEARING OFFICER: Could you, please.

24 MR. WHITE: Mr. Flangas, there were signature pages on

12:15PM 25 the other three patients we went through.

1 MR. FLANGAS: Okay.

2 MR. WHITE: And it appeared that Dr. Phillips signed it

3 as an anesthesiologist.

4 And the difference with this one is, there is no

12:15PM 5 signature page at all, no place for an anesthesiologist, MD or PA

6 or anybody to sign it. It's just not in here.

7 Yet, on page 954, we have her signature as doing the

8 VASER lipo consultation.

9 MR. FLANGAS: Okay. She signs for the lipo but not for

12:16PM 10 the anesthesia.

11 MR. WHITE: Yeah, I can't tell because there's no

12 signature page at all.

13 Indulgence, please.

14 THE HEARING OFFICER: Uh-huh.

12:18PM 15 MR. WHITE: Indulgence, please. Sorry.

16 I apologize, Your Honor. I'm just trying to streamline

17 the whole thing. I'm just going through and making sure I didn't

18 miss anything.

19 THE HEARING OFFICER: You bet.

12:19PM 20 MR. WHITE: Yeah, pass the witness.

21 THE HEARING OFFICER: Very good. Then Mr. Flangas, you

22 may question.

23 MR. FLANGAS: Okay. Thank you.

24

25 ///

1 CROSS-EXAMINATION

2 BY MR. FLANGAS:

3 **Q Do I call you Investigator LaRue or Ms. LaRue -- or**

4 **Ms. Investigator LaRue?**

12:19PM 5 A Either, whatever you are comfortable with is fine.

6 **Q Okay. Ms. LaRue, let's go from backwards to forward.**

7 **Okay. The last, I think, exhibit that you were looking at was**

8 **Exhibit 102?**

9 A Correct.

12:19PM 10 **Q Is that correct? That's Patient TTT, correct?**

11 A I'm guessing.

12 MR. FLANGAS: Okay. For the record, that's Patient TTT;

13 right?

14 MR. WHITE: Yes. Yeah.

12:20PM 15 BY MR. FLANGAS:

16 **Q Did you say you went through that and there was -- I**

17 **mean, Mr. White had you go through a couple of exhibits. I think**

18 **it was -- I wrote down it was 40, 43, 45. I think those are the**

19 **three main exhibits, right?**

12:20PM 20 A Yes.

21 **Q And 42, right?**

22 A Yes.

23 **Q Okay. So -- and you went through and said there was no,**

24 **in those exhibits, there's no mention of propofol, right?**

12:20PM 25 A Correct.

1 **Q And in Exhibit 102 is there mention of propofol?**
2 A I would have to look through.
3 **Q Why don't you look through.**
4 A Give me a second.
12:20PM 5 MR. WHITE: I'll stipulate there is. Can I do that? I
6 would do that, yeah.
7 BY MR. FLANGAS:
8 **Q So let's actually go to the page.**
9 **It's page 2552.**
12:20PM 10 A Okay.
11 **Q Okay. So this is a form that's in all of those other**
12 **exhibits we talked about, right? 40, 42, 43, 45, correct?**
13 A No.
14 **Q This form.**
12:21PM 15 A No, this is a different form.
16 **Q Oh, they changed the form?**
17 A This is a different -- yes, this is a different record
18 that was in all of the other exhibits that I previously looked at,
19 right.
12:21PM 20 **Q And they actually change the form, and from that point**
21 **forward they used a different form; is that correct? If you know.**
22 A I would not know the answer to that. I can tell you
23 this is a different form from the ones that I reviewed.
24 **Q Okay. In any event, do you see down below, where it**
12:21PM 25 **says propofol infusion at 40 --**

1 A Yeah.

2 **Q -- CCs an hour, 10:35 to 11:11?**

3 A Yes.

4 **Q Okay. So this is the medical record for TTT and do you**

12:21PM 5 **see that's being mentioned, right?**

6 A Correct.

7 **Q Whatever that means, right?**

8 A Yes.

9 **Q I guess, from the line of questioning, it's, "well, you**

12:22PM 10 **know, in these other exhibits there's no propofol mentioned,"**

11 **correct?**

12 A Yes.

13 **Q Okay. And now we have a change in form, a different**

14 **form in this exhibit; correct?**

12:22PM 15 A Uh-huh.

16 MR. WHITE: I will object. Actually, the timeline is

17 different. Those -- that's earlier. That's from 2020.

18 MR. FLANGAS: Oh, this was earlier, then they changed it

19 differently.

20 THE WITNESS: Uh-huh.

21 BY MR. FLANGAS:

22 **Q In any event, in this exhibit there was a different**

23 **form; right?**

24 A Yes.

12:22PM 25 **Q Did you look at the previous forms, like this one, to**

1 **see that actually they had propofol listed on there?**
2 A Yeah, the previous forms, or the previous exhibits that
3 I reviewed, there was no propofol listed.
4 **Q Okay. And so this one, it's listed.**
12:22PM 5 **Now there's a sedation log also; correct?**
6 A Correct.
7 **Q Okay. So in the hypothetical that Mr. White gave you,**
8 **and he said okay, in your, you know, experience, in your emergency**
9 **room, wouldn't you want to know all the medication that the**
12:23PM 10 **patient was dispensed or obtained -- or not obtained, what do you**
11 **call it, took --**
12 A Yes.
13 **Q Right?**
14 A Was dispensed, yeah.
12:23PM 15 **Q And the answer is yeah, of course, you would want to**
16 **know; right?**
17 A Uh-huh.
18 **Q And in this medical record for TTT, it's there; is that**
19 **correct?**
12:23PM 20 A It's listed on the form, correct.
21 **Q So, I mean, that's one of -- so there was no question,**
22 **as far as this patient, that if these medical records actually**
23 **even made it to the hospital, which we don't even know, they would**
24 **know that propofol and some other medications were given to her;**
12:23PM 25 **correct?**

1 A Yes.

2 **Q Okay.**

3 A If they received the medical records.

4 **Q Okay. If they even saw it, yeah.**

12:23PM 5 A Correct.

6 **Q And typically, when an ambulance is picking up someone,**

7 **do they -- I mean in your experience they don't say "Let's hold**

8 **off, we're not going to take her to the hospital yet, let's wait**

9 **for the medical records to come," that -- usually they come later,**

10 **right?**

11 A That would be correct. The ambulance won't wait.

12 **Q Okay. And then there's a sedation log that you**

13 **testified to, Exhibit 11, which is showing the use of propofol;**

14 **correct?**

12:24PM 15 A Uh-huh, correct.

16 **Q And do you know -- do you know -- you weren't working at**

17 **the time these records were received? Were you working for the**

18 **department or were you just not on this case?**

19 A This was not my investigation. I've worked for the

12:24PM 20 medical board for 16 and a half years, so I was employed at the

21 time that these medical records were received, but this was not my

22 original case.

23 **Q Okay. Do you know how the medical board received the**

24 **medical records, which include the sedation logs, do you know how**

12:24PM 25 **they received them?**

1 A They would have been requested by the investigator. I
2 don't know who delivered them or how they were delivered, but I
3 know the investigator, in our process, would have requested these
4 records directly from the source.
12:24PM 5 **Q Okay. And so it would have been through some type of**
6 **an -- and I saw in an order that went with one of the letters,**
7 **it's an order saying, hey, produce all the medical records; right?**
8 A Correct.
9 **Q And then I think what's important here is the medical**
12:25PM 10 **records you have right now were actually produced, which includes**
11 **the sedation logs; correct?**
12 A I couldn't tell you specifically because I didn't
13 receive them directly, but, yes, in general, if we had requested
14 the records, we would have received what they sent us.
12:25PM 15 **Q Okay. And so they would have sent -- you received the**
16 **sedation logs, you got that from them too, whoever "them" is;**
17 **correct?**
18 A Whoever they were requested from.
19 **Q Okay. There was no search warrant of the place, as far**
12:25PM 20 **as you know; correct?**
21 A No, that's not in our purview, to do a search warrant
22 for -- we're allowed to go and request medical records on site
23 with an order of the Board, but we don't do search warrants, or
24 that's not for the administrative agency.
12:26PM 25 **Q So when they sent you everything, whoever -- if I**

1 **represented it was Vida Spa that -- okay. Let's -- actually,**
2 **let's talk about this.**
3 **Who is in charge of medical records?**
4 A That depends on the facility, that depends on the
12:26PM 5 physician.
6 **Q Okay.**
7 A That really depends.
8 **Q Right. Would you agree it's either/and -- either the**
9 **owner and/or the medical director?**
12:26PM 10 **If you own the company and you own a big medical**
11 **facility, you have some type of responsibility for the medical**
12 **records; right?**
13 A Not necessarily. It depends on the contract that the
14 physician has with the facility, or if they're an independent
12:26PM 15 practice, if they are a surgical center. It really depends on
16 what specifically is put in writing.
17 The statute would state that the physician is the
18 custodian of the records, but if the physician has a contract on
19 site with whomever, they may not necessarily be considered what we
12:27PM 20 would call the custodian of the records.
21 **Q Okay. The statute says the physician is responsible?**
22 A The physician is required for the retention, to keep the
23 records for five years from the last date they were seen as a
24 patient, unless they are, of course, a minor; but if the physician
12:27PM 25 is not custodian of the records, then it's the facility who is the

1 custodian that's required to keep the records.

2 **Q Okay. If it isn't the physician, then it's the facility**

3 **that's required?**

4 A Correct.

12:27PM 5 **Q And the medical director, the medical director of the**

6 **facility, like Vida Spa, that's what we're talking about, that's**

7 **the medical person, the physician that would be responsible,**

8 **except if you look at the contract; correct?**

9 A Yes and no. It could potentially be the owner of the

12:27PM 10 facility if they don't have a medical -- or it's convoluted to say

11 that it's specifically the medical director.

12 It's -- the custodian of the records are who is

13 basically in charge of the facility.

14 **Q Whoever is in charge of the facility?**

12:28PM 15 A Yes, that would be --

16 **Q And I think you were going to say the owner -- if the**

17 **owner of the facility happens to be a doctor, and even though that**

18 **doctor has a medical director, maybe it's that doctor who owns it**

19 **is responsible?**

12:28PM 20 A It could be.

21 **Q Okay.**

22 A There are a lot of gray areas.

23 **Q So it's basically who ever controls the facility --**

24 A Correct, being considered.

25 THE REPORTER: Would you repeat that question.

1 BY MR. FLANGAS:

2 **Q Whoever controls the facility is the responsible person**

3 **for the medical records?**

4 THE HEARING OFFICER: And you, Ms. LaRue, you agree with

12:28PM 5 that statement?

6 THE WITNESS: In part, yes. If the physician has a

7 contract, that the physician is independently -- like a locum

8 tenens or something like that -- the physician could have in their

9 contract with the facility that they are the custodian of their

12:28PM 10 own records.

11 BY MR. FLANGAS:

12 **Q Okay.**

13 A Then that would be different. It really would depend.

14 It's contractual.

12:28PM 15 **Q Okay. That would be a carve-out?**

16 A Correct.

17 **Q Right? So that would be, you know, there could be a**

18 **physician who works at a hospital, and says, you know what,**

19 **though, based on my contract, I want to be in charge of my medical**

12:29PM 20 **records?**

21 A If that's allowed when they come on site as an employee,

22 yes. That would be something, yes.

23 The statute doesn't delineate either one of those.

24 **Q Otherwise, it's whoever controls the facility?**

12:29PM 25 A As the custodian of the records.

1 **Q Okay. And you're not testifying from personal**
2 **knowledge, but you, based on your experience and working with the**
3 **medical board for -- 17 years?**
4 A 16 and a half.
12:29PM 5 **Q 16 years. See, I'm dating you already -- 16 and a half**
6 **years -- the medical records, which would be the sedation logs and**
7 **all these other records, were a response to the subpoena order**
8 **that was sent out to them, correct?**
9 A Correct. They would come to the Board based on the
12:29PM 10 request.
11 **Q Okay. Okay. So you would agree, the very fact they**
12 **sent a sedation log of propofol, saying which patient got**
13 **propofol, that they weren't trying to hide that, whoever was the**
14 **custodian of records?**
12:30PM 15 A Yes.
16 **Q Okay. Now, do you know, do you have personal knowledge,**
17 **as far as this facility, who the owner of the Vida Spa was?**
18 A No, I do not.
19 **Q Okay. And do you know who -- and there were several of**
12:30PM 20 **them -- the medical directors were of this facility during, let's**
21 **say the time period of May of 2020, to when they closed, July of**
22 **2021?**
23 A No, I do not.
24 **Q Okay. Do you have -- you probably don't, I don't know.**
12:31PM 25 **Do you have any personal knowledge of Dr. Maryanne Phillips, that**

1 **she was an independent contractor for this facility?**
2 A No. No.
3 **Q Okay. Did you know that Dr. Maryanne Phillips rented a**
4 **room in the facility and paid $500 a month?**
12:31PM 5 A No.
6 MR. WHITE: I'm going to object as to facts not in
7 evidence. I don't see what --
8 THE HEARING OFFICER: Well, it's a fair question.
9 What's the relevance of that?
12:31PM 10 MR. FLANGAS: That she wasn't the medical director of
11 the facility, that's all. I mean --
12 BY MR. FLANGAS:
13 **Q Look, are you aware that Dr. Maryanne was never, ever,**
14 **ever, ever --**
12:32PM 15 **Did you get all the "evers," Connie?**
16 **-- ever a medical director of Vida Spa?**
17 A No, I -- no. Not prior to looking at the exhibits.
18 **Q Okay. Let's look at Exhibit 51.**
19 **When you said not until you looked at the exhibits --**
12:32PM 20 A Uh-huh.
21 **Q -- you are not testifying she was a medical director of**
22 **Vida Spa, are you?**
23 A No, I'm testifying it was noted on some of the exhibits
24 that I reviewed, that have her signature on it.
12:33PM 25 **Q Correct. Yeah. An independent contractor could sign**

1 **as -- it was an anesthesiologist, correct?**
2 A No. Some of them were signed as a medical director.
3 **Q Okay. Let's -- you're correct. Let's find out what**
4 **she's claiming to be a medical director of.**
12:33PM 5 **On Exhibit 51, Bates stamp 1105, it says BioNeutra --**
6 A Neutraceutical.
7 **Q -- ceutical -- your eyesight is better -- Health**
8 **Solutions, Maryanne Phillips, M.D., Medical Director?**
9 A Correct.
12:33PM 10 **Q So your testimony is, only from these exhibits that we**
11 **have, it appears that she's, from this piece of paper, this**
12 **document, she's a medical director of -- we'll call it**
13 **BioNeutra -- we'll call it Bio Health Services?**
14 A It's called BHS.
12:34PM 15 **Q BHS. Thank you. Of BHS; correct?**
16 A From this exhibit, yes.
17 **Q Okay. Great.**
18 **And did you know that this document was found in her**
19 **office that she was renting at the -- in that facility? Or do you**
12:34PM 20 **know where this document was found?**
21 MR. WHITE: Objection. Calls for speculation.
22 THE HEARING OFFICER: He can ask if she knows where it
23 was found.
24 THE WITNESS: I was aware that it was found in
12:34PM 25 Dr. Phillips' office.

1 BY MR. FLANGAS:

2 **Q Okay. How did you become aware of that?**

3 A Through the investigator, Senior Investigator Friedman.

4 **Q And I believe you would be correct.**

12:34PM 5 A Yeah.

6 **Q So were you aware that Dr. Phillips had an office there?**

7 A I'm aware that she had an office. That's all I can say.

8 **Q Okay. You are not aware of what her arrangement was in**

9 **renting that office, are you?**

12:35PM 10 A No.

11 **Q Okay. That's fine.**

12 **Let's go to Exhibit 1108.**

13 MR. WHITE: Exhibit 1108?

14 THE WITNESS: You mean page 1108?

12:35PM 15 MR. FLANGAS: Oh, I'm sorry. Exhibit 51, page 1108.

16 THE WITNESS: Okay.

17 BY MR. FLANGAS:

18 **Q Okay. That, I think you testified to, is some type of**

19 **prescription bottle, correct?**

12:35PM 20 A Correct.

21 **Q And it has Dr. Maryanne Phillips's name on it, correct?**

22 A Yes.

23 **Q What -- are you aware that this was found in her office?**

24 A Yes.

12:35PM 25 **Q Okay. What's this -- did you know -- what's the**

1 **importance of this, in your mind, at all?**
2 A In my mind it's important because I don't believe that
3 Dr. Phillips has a prescribing license.
4 **Q Okay. If I told you she does have a prescribing**
12:35PM 5 **license, she can prescribe anything she wants, except narcotics --**
6 **and I could show you the previous orders, would that -- you didn't**
7 **know that; how is that?**
8 A I was unaware that she was allowed to prescribe.
9 **Q Okay. Yeah. In there, there's a 2016, 2017, 2019**
12:36PM 10 **order. She's allowed to prescribe anything, except narcotics.**
11 A Yes, she does not have a DEA license, so she can't
12 prescribe narcotics.
13 **Q Right. Right. Narcotics.**
14 **And so this isn't a narcotic prescription, correct?**
12:36PM 15 A No, it's -- I don't know what it's a prescription for.
16 **Q Okay.**
17 A It doesn't say. It just has -- it's a bottle with her
18 name on it.
19 **Q Okay. So --**
12:36PM 20 A It could be for anything.
21 **Q It could be for anything. It's our guess, right?**
22 **Okay. Let's go to Exhibit 51, Bates stamp 1110.**
23 **And that's -- could you tell me what a picture of that**
24 **is?**
12:37PM 25 A It's a prescription bottle.

1 **Q Okay. And it has Maryanne Phillips' name on it?**
2 A It says Phillips. I can't see that it says Maryanne,
3 but I see it says Phillips.
4 **Q And it's a prescription of clindamycin?**
12:37PM 5 A Correct.
6 **Q Okay. That's not a narcotic; is that correct?**
7 A I honestly don't know the answer to that. I'm not a
8 physician.
9 **Q Okay. By the way, I believe, also, you weren't aware**
12:37PM 10 **of -- did you read any of the previous orders on Dr. Phillips?**
11 A Yes.
12 **Q The approved suspension orders?**
13 A Oh, yes, I'm very aware.
14 **Q Did you know that she could actually use -- administer**
12:37PM 15 **narcotics and anesthesia?**
16 A As an anesthesiologist, that's right.
17 **Q Right, as an anesthesiologist.**
18 A Only in the capacity of an anesthesiologist.
19 **Q Correct. Correct. Okay.**
12:37PM 20 **So let's go to Exhibit 51, Bates stamp 1111.**
21 **And you see on there, the significance is those are**
22 **prescriptions by Dr. Maryanne Phillips; correct?**
23 **You have to say "correct" for the record.**
24 A Oh. Correct. Sorry.
12:38PM 25 **Q That's okay. I knew what you meant when you were**

1 **nodding.**
2 A Yeah. I'm trying to read what they say.
3 **Q And these two prescriptions are not narcotics, correct?**
4 A Correct.
12:38PM 5 **Q Okay.**
6 A I think. I'm not a 100 percent. I'm not a physician,
7 so I couldn't tell you what the medications are for, specifically.
8 **Q Okay. All the pictures of prescriptions that we have**
9 **here, you're not here testifying that they're actually scheduled**
12:38PM 10 **narcotics; correct?**
11 A Correct.
12 MR. WHITE: Objection. Argumentative.
13 THE WITNESS: Yes.
14 THE HEARING OFFICER: Well, I'll allow it.
12:38PM 15 MR. FLANGAS: Okay.
16 BY MR. FLANGAS:
17 **Q And prior to you testifying, you were -- are unaware, in**
18 **your mind, you thought that she couldn't prescribe at all;**
19 **correct?**
12:39PM 20 A Yes. In my mind Dr. Phillips could only administer
21 medication during the course of being an anesthesiologist.
22 **Q Okay. All right.**
23 **And then we have a prescription -- oh, I'm sorry,**
24 **Exhibit 51, Bates stamp 1113, and that's a prescription of**
12:39PM 25 **propofol?**

1 A It's not a prescription.

2 **Q I'm sorry.**

3 A It's just a vial.

4 **Q I'm sorry, what it is?**

12:39PM 5 DR. PHILLIPS: It's just a bottle.

6 THE WITNESS: Propofol.

7 BY MR. FLANGAS:

8 **Q That's a bottle of propofol?**

9 A Yeah, it doesn't get prescribed.

12:39PM 10 **Q How does that work? What do you mean? Oh, it doesn't**

11 **get prescribed --**

12 A No, it's not a schedule -- it's not something -- it just

13 gets administered, yeah. They have it in vials, whatever.

14 **Q Okay. What's the significance of this, that propofol**

12:40PM 15 **was being used at the site? If they -- if you know. Maybe you**

16 **don't know.**

17 A Yeah, I mean, it would note that propofol was being used

18 to administer anesthesia. That's what it's for.

19 **Q Okay. Great.**

12:40PM 20 **And so let's circle back now to Bates stamp -- still**

21 **Exhibit 51 -- 1105, and I just want to circle back so the Hearing**

22 **Master could note this part, which is that you still have the BHS,**

23 **Maryanne Phillips, Medical Director, then you have an address, I**

24 **guess, on Flamingo; correct?**

12:41PM 25 A Correct.

1 **Q And in your experience, would you agree that there are**
2 **many doctors that, you know, they work independently and they have**
3 **their own companies?**
4 A Yes.
12:41PM 5 **Q Okay. And when they contract with third parties as**
6 **independent contractors, they contract through that legal entity**
7 **they use, not individually; that happens, correct?**
8 MR. WHITE: Objection. Calls for speculation.
9 THE WITNESS: I would speculate it is, yes.
12:41PM 10 THE HEARING OFFICER: Do you know the answer to the
11 question?
12 THE WITNESS: It's speculation, but, I mean, I would
13 assume that could be, but I couldn't say for everyone, how they do
14 business. It's a possibility, but it's not anything I could
12:41PM 15 attest to.
16 BY MR. FLANGAS:
17 **Q No, I didn't say everyone does it. I just say, you've**
18 **seen this happen, where doctors, they say this is my company, I'm**
19 **contracting with a third party, with my company?**
12:41PM 20 A Yes. I can say that, yes, that happens.
21 **Q I mean, you know, the reason why we have companies is to**
22 **protect us from liability and to set up a business entity.**
23 A Uh-huh.
24 **Q Right?**
12:42PM 25 A Sure.

1 **Q You understand the whole purpose of having these**
2 **corporations and companies, right?**
3 A Yes, I understand.
4 **Q Okay. And if you contract with a third party using the**
12:42PM 5 **company, you're not opening yourself up for liability; right?**
6 MR. WHITE: Objection. Calls for speculation.
7 THE HEARING OFFICER: Sustained.
8 But you can lay some foundation there, if you want.
9 MR. FLANGAS: I don't -- it doesn't matter. Okay.
12:43PM 10 We're good? Okay.
11 BY MR. FLANGAS:
12 **Q So what departments -- you're in Investigation**
13 **Department right now?**
14 A Correct.
12:43PM 15 **Q And you've been in that, the Investigation Department,**
16 **for how long?**
17 A 16 and a half years.
18 **Q Oh, 16 -- oh, fully. Okay.**
19 A Yes.
12:43PM 20 **Q There's also, is it the medical department or medical**
21 **board, they have a licensing department?**
22 A We have a licensing division, correct.
23 **Q Can you tell me the different divisions we have.**
24 A At the medical board we have a legal division, an
12:43PM 25 administrative division, investigations division and licensing

1 division.

2 **Q Okay. Now, are you aware that in 2020, a year before**

3 **the letters went out to Vida Spa, are you aware that in 2020 there**

4 **was an investigation on Vida Spa?**

12:44PM 5 MR. WHITE: Objection. Relevance.

6 THE HEARING OFFICER: Is it relevant?

7 MR. FLANGAS: Yeah, it's relevant, because it goes to --

8 I'm laying the foundation. It goes to that the State of Nevada

9 knew that Vida Spa was operating, that it was going through an

12:44PM 10 application process, and allowed it to happen.

11 THE HEARING OFFICER: I'm going to let you go with this

12 for a little bit.

13 MR. WHITE: I'm going to just say, it's sort of a

14 speaking objection, but how is that relevant to the medical board?

12:44PM 15 It's a different agency.

16 THE WITNESS: Yeah, we don't license facilities.

17 THE HEARING OFFICER: And I just -- I will let you ask

18 her what she knew or didn't know, in terms of how that may have

19 factored into her investigation.

12:44PM 20 MR. WHITE: Maybe no one knows, that's two different

21 agencies we're talking about. Department of Health and Human

22 Services is different from this.

23 MR. FLANGAS: Oh, from this department.

24 MR. WHITE: Yeah, we don't do that. We don't do

12:44PM 25 facilities.

1 MR. FLANGAS: Oh. Okay.
2 So I'll tell you what, let me lay a different
3 foundation.
4 BY MR. FLANGAS:
12:45PM 5 **Q So do you know what a facility needs to do to become a**
6 **licensed outpatient facility?**
7 A No, I don't work for that department. That's the
8 Department of Health and Human Services.
9 **Q Okay.**
12:45PM 10 A I don't -- I would not have any idea.
11 **Q Okay. If this facility was a licensed outpatient**
12 **facility, is it your understanding that there would be no problem**
13 **with propofol being administered there? If you know.**
14 A I don't know. Not my division, or not my facility. I
12:45PM 15 don't work for them.
16 **Q Okay. And just to recap, you don't know -- okay.**
17 **You've never been to the facility, correct?**
18 A No.
19 **Q In those exhibits, 20 and 42, and 43 and 45, does it**
12:47PM 20 **talk about other sedations, what type of sedations? You saw**
21 **the --**
22 A There was a list of other medications.
23 **Q Right. List of medications. But you saw where they**
24 **talked about sedation in there?**
12:47PM 25 **Do you remember? Or you don't remember.**

1 A Yes. There was --
2 MR. WHITE: I would ask --
3 THE WITNESS: There was a list of medications.
4 MR. FLANGAS: I'll tell you what, I'll go through that
12:47PM 5 later.
6 BY MR. FLANGAS:
7 Q Did you know that -- and maybe you don't know. If
8 narcotics are prescribed -- let me ask if you know this.
9 If narcotics are prescribed, not for relieving pain but
12:47PM **10 for sedative purposes, the facility has to be an outpatient**
11 facility?
12 A Yes, they have to be one of 16, actually, that are
13 licensed by the Department of Health and Human Services in order
14 to be able to do that and not report to the Board.
12:48PM **15 Q Okay. And in the exhibits, 40 and 42, 43, maybe 44, 45,**
16 it talks -- it shows in there that narcotics were supplied to the
17 patients, right? Does it?
18 MR. WHITE: I'm going to -- I'm going to object. It's
19 kind of a weird objection. I was sitting here thinking, why don't
12:48PM 20 we point her to the --
21 MR. FLANGAS: Let's go to one of them.
22 THE WITNESS: Something specific, yeah.
23 MR. WHITE: Why don't we point her to something specific
24 in the exhibit.
12:48PM 25 MR. FLANGAS: Yeah, let's go through one of them.

1 THE HEARING OFFICER: I'm going to go off the record for
2 a quick moment, just housekeeping.
3 (A discussion was held off the record.)
4 MR. WHITE: Maybe we should make a note that you were
12:49PM 5 about to go through the exhibits and point out specific
6 medications that are not propofol, just so we know where you are
7 now.
8 MR. FLANGAS: Yeah.
9 THE HEARING OFFICER: That's where we were going. Okay.
12:50PM 10 So we will take a lunch break here. And let's go off the record.
11 (A discussion was held off the record.)
12 MR. WHITE: There's -- the Rule of Exclusion continues.
13 Don't talk to other witnesses.
14 THE HEARING OFFICER: That's correct, don't talk to any
12:51PM 15 witnesses who might testify.
16 Thanks.
17 (The lunch recess was taken.)
18 THE HEARING OFFICER: Sir, I'm going to ask you to start
19 off by raising your right hand and our court reporter is going to
02:10PM 20 swear you in.
21 Okay.
22
23 SALVADOR BORROMEO, M.D.
24 called as a witness, having been duly sworn,
25 testified by videoconference as follows:

1

2 THE HEARING OFFICER: Thank you, sir. All right.

3 Mr. Flangas, who is calling you as a witness on behalf

4 of Dr. Phillips, is going to start off asking you questions first.

02:11PM 5

6 DIRECT EXAMINATION

7 BY MR. FLANGAS:

8 **Q Good afternoon, Dr. Borromeo. Do you see me over here?**

9 A I do.

02:11PM 10 **Q I'm going to direct your attention to June of 2020. Did**

11 **there come a time where you met or got introduced to Vida Spa and**

12 **Gisselle Platfoot?**

13 A Yes.

14 **Q Can you tell us.**

02:11PM 15 A I was asked by my former nurse practitioner to help out,

16 cover a medical directorship. They were looking for a medical

17 director.

18 **Q Okay. And at that time it was your understanding that**

19 **Vida Spa -- who was the owner of Vida Spa?**

02:11PM 20 A Gisselle.

21 **Q Gisselle Platfoot, correct?**

22 A Yes.

23 **Q And at that time it was your understanding she wanted to**

24 **enter into a contract with you to be the medical director for the**

02:12PM 25 **spa?**

1 A Correct.
2 **Q Okay. And did you sign a contract with her, becoming**
3 **the medical director of the spa?**
4 A Yes.
02:12PM 5 **Q Okay. And there was a physician assistant that was**
6 **working there; is that correct?**
7 A Yes.
8 **Q Ms. Tammy Hankins; is that correct?**
9 A Right.
02:12PM 10 **Q And how long were you the medical director of the spa?**
11 A About a month.
12 **Q Okay. At the time you had a meeting with Ms. Gisselle**
13 **Platfoot about becoming the medical director of the spa, what**
14 **happened, were you ever informed about whether they were licensed**
02:13PM 15 **to be a medical spa there? Or tell me what your understanding**
16 **was.**
17 A I presumed they were licensed to practice, med spa.
18 **Q And why did you even presume that?**
19 A Because I heard it was -- it has been in operation for a
02:13PM 20 while.
21 **Q Okay. For several years?**
22 A About a couple of years, at least, yes.
23 **Q And matter of fact, it was Gisselle, your -- Gisselle,**
24 **who you said was one of your assistants, she told you that they**
02:13PM 25 **were in business for several years as a licensed medical spa and**

1 **facility?**

2 MR. WHITE: Objection. Leading.

3 THE HEARING OFFICER: I'll sustain it. Go ahead. Ask

4 around that.

02:13PM 5 BY MR. FLANGAS:

6 **Q Okay. Do you remember signing an affidavit?**

7 A Yes.

8 **Q Do you remember what you said about what Gisselle told**

9 **you about the Vida Spa, regarding licensing?**

02:14PM 10 A I presumed they had a valid license when they asked me

11 to be the medical director.

12 **Q Okay. There were -- and you went and toured the spa**

13 **area; correct?**

14 A I did.

02:14PM 15 **Q Okay. And it -- and it looked like it was a typical**

16 **medical facility; correct?**

17 A Correct.

18 **Q Okay. And do you remember -- okay. Let me rephrase**

19 **this.**

02:14PM 20 **Do you remember Gisselle telling you --**

21 MR. WHITE: Objection. Leading. I already objected to

22 that.

23 BY MR. FLANGAS:

24 **Q Well, first off, do you remember what Gisselle told you**

02:15PM 25 **about being a licensed spa?**

1 MR. WHITE: Objection. Hearsay.
2 THE HEARING OFFICER: Well, he's only asking if he
3 remembers what it was. He didn't ask him what that was.
4 MR. FLANGAS: Right. And it's also what she says, for
02:15PM 5 the fact she said it, not for the truth it was really licensed,
6 because we all know it wasn't really licensed.
7 THE HEARING OFFICER: Go ahead.
8 BY MR. FLANGAS:
9 Q Okay. You already stated you remembered signing an
02:15PM **10 affidavit several months ago; correct?**
11 A Correct.
12 Q Okay. I could show you --
13 MR. FLANGAS: How do you want me to proceed? Do you
14 want me to just read it to him? Or do you want me to have my gal
02:15PM 15 show him the affidavit?
16 THE HEARING OFFICER: Do you have any objection?
17 MR. WHITE: Just for, yeah, just for procedural
18 purposes, you can just refer him to -- he's got the binders in
19 front of him, so you can refer him to an exhibit you want to look
02:16PM 20 at.
21 MR. FLANGAS: Great.
22 BY MR. FLANGAS:
23 Q Can you go to -- there's a trial binder there with my
24 name on the top of it. It will look like the most important white
02:16PM **25 binder there.**

1 **Oh, you see, Don is hiding my binder.**

2 **Do you see any binders with alphabet exhibits?**

3 THE HEARING OFFICER: The little tabs are letters going

4 down the sides, rather than numbers.

02:16PM 5 This exercise will give you an appreciation for what

6 trial lawyers do.

7 THE WITNESS: They are all numbers.

8 MR. FLANGAS: It's okay. My secretary has it there. I

9 planned on a contingent.

02:17PM 10 Can you walk in and give Dr. Borromeo our exhibit book,

11 please.

12 THE HEARING OFFICER: Do you see a binder that does not

13 have the state seal, the seal on the front of it?

14 See how, on the front of the binders, they all have that

02:17PM 15 seal from the medical board?

16 THE WITNESS: Yes.

17 THE HEARING OFFICER: Is there one that doesn't have the

18 seal?

19 THE WITNESS: They all have a seal.

02:17PM 20 THE HEARING OFFICER: Okay. We've got to get you the

21 one -- it looks like it might be on its way in.

22 THE WITNESS: Thank you.

23 BY MR. FLANGAS:

24 **Q Thank you. Can you turn to Exhibit R, as in "Romeo."**

02:18PM 25 **Okay. I'm going to have you -- can you please read that**

1 **to yourself, line 2.**
2 A Okay.
3 **Q Does that refresh your memory as to what Ms. Gisselle**
4 **Platfoot told you?**
02:18PM 5 A She -- if I remember, she mentioned that they had been
6 in practice for three years.
7 **Q Okay. And is it fair to say that you had no reason to**
8 **believe that they were not licensed, or not -- they didn't have a**
9 **right to do what the procedures they were doing there? You had no**
02:18PM 10 **clue?**
11 A I was going by what my former nurse practitioner told
12 me, Charmaine, that they had been seeing patients there for a
13 while.
14 **Q Okay. You were aware that other doctors were working**
02:19PM 15 **there; is that correct?**
16 A I had met Ms. Hankins and Charmaine.
17 **Q Okay. Finally -- let me ask you this.**
18 **Did -- when you were the medical director, you were**
19 **prescribing narcotics and stuff like that; is that correct?**
02:19PM 20 A Yes.
21 **Q Okay. And who would -- did you have nurses there that**
22 **would dispense those narcotics?**
23 A They will sign -- the nurse and I will sign the
24 prescription.
02:19PM 25 **Q Okay. Let me ask you this. How many times have you --**

1 **were you -- did you ever go to that spa during the one-month**
2 **period?**
3 A One time.
4 **Q Just one time. Okay.**
02:20PM 5 A Yes.
6 **Q Did you ever see Dr. Maryanne Phillips at the spa?**
7 A Yes. I went. The day I was there I saw Dr. Phillips.
8 **Q Okay. You saw her. Did you talk to her?**
9 A Yes, I talked to her in the lobby. I said hi to her.
02:20PM 10 That was pretty much the extent of our interaction.
11 **Q So you went one time to the spa, and the one time you**
12 **went to the spa you did see Dr. Maryanne Phillips and you guys**
13 **basically just said hi, hi. Is that pretty much it?**
14 A Correct.
02:20PM 15 **Q Okay.**
16 MR. FLANGAS: That's all.
17 THE HEARING OFFICER: Doctor, while you're there, before
18 I let the other attorney ask you questions, is the correct
19 spelling of your last name, is it B-O-R-R-O-M-E-O?
02:21PM 20 THE WITNESS: Correct.
21 THE HEARING OFFICER: Okay. And how do you pronounce
22 that, sir?
23 THE WITNESS: "Bore-row-mayo."
24 THE HEARING OFFICER: Okay. So Mr. White is the
02:21PM 25 attorney for the medical board's Investigative Committee. He's

1 going to have the opportunity to ask you some questions now.
2 MR. WHITE: Thank you. Good afternoon, Dr. Borromeo.
3 THE HEARING OFFICER: And, Dr. Borromeo, your first name
4 is Salvador?
02:21PM 5 THE WITNESS: Correct.
6 THE HEARING OFFICER: S-A-L-V-A-D-O-R?
7 THE WITNESS: Yes.
8 THE HEARING OFFICER: Before you do that, wasn't it --
9 didn't we have an exhibit or two pertaining to him?
02:22PM 10 MR. WHITE: Yes.
11 THE HEARING OFFICER: All right. Is it your -- you may
12 not be able to answer this question, but is it your intent to try
13 and get those exhibits in at this point? Because I think I
14 reserved on those, right?
02:22PM 15 MR. WHITE: They are reserved right now. I believe it's
16 106 and 10- -- wait.
17 THE HEARING OFFICER: And 105, right? 105 and 106?
18 MR. WHITE: 105 and 106, yeah, I believe so.
19 THE HEARING OFFICER: All right. So I'll let you do
02:22PM 20 whatever you plan on doing, subject to objections.
21
22 CROSS-EXAMINATION
23 BY MR. WHITE:
24 Q Good afternoon, Dr. Borromeo. Again, my name is Don
02:23PM **25 White. I'm a senior deputy attorney general counsel for the Board**

1 of Medical Examiners.

2 Can you hear me okay?

3 A Yes.

4 Q Dr. Borromeo, did you receive discipline from the Nevada

02:23PM 5 State Board of Medical Examiners in 2021?

6 A Yes.

7 Q Okay. So at one point you received -- you received

8 service of a complaint that was filed on August 11, 2021?

9 A Yes.

02:23PM 10 Q Okay. And if you would like to follow along, it is --

11 I'll let you know that it is Exhibit 105 in the Board's exhibits,

12 not the binder you have in front of you. Yeah.

13 You'll see some tabs in some of those binders.

14 A 104.

02:24PM 15 Q Do you see it?

16 A 105, yes.

17 Q So I'm looking at page 2642.

18 THE HEARING OFFICER: That would be down in the bottom

19 right-hand corner.

02:24PM 20 BY MR. WHITE:

21 Q Do you see that?

22 A Yes.

23 Q Okay. It's the first page of the complaint. All right?

24 So this -- this discipline, this complaint, and then

02:24PM 25 we're going to get to the settlement agreement in a moment, but

1 **this settlement agreement and complaint were involving your**
2 **medical directorship of Vida Spa; is that correct?**
3 A Correct.
4 **Q And in that you were charged with -- Count 1 was**
02:25PM 5 **engaging in conduct that violates Pharmacy Board regulations.**
6 **Do you know why you were charged with that?**
7 A It was because of the -- Ms. Hankins' dispensing of
8 medication, narcotics in the Vida Spa.
9 **Q Okay. That you were ordering?**
02:25PM 10 A That I, yeah, prescribed.
11 **Q Okay. So Count 2, which is page 2666, is unauthorized**
12 **or otherwise inappropriate prescribing of controlled substances?**
13 A Yes.
14 **Q And that mainly is, looks like it mainly revolves around**
02:26PM 15 **that you, at least for four patients, were writing prescriptions,**
16 **signing prescriptions for controlled substances for patients you**
17 **did not see?**
18 A Yes.
19 **Q In fact, you didn't see any patients, did you?**
02:26PM 20 A No.
21 **Q And then failure to supervise medical assistant is**
22 **Count 3, same page. And you didn't supervise medical assistants**
23 **there, or anyone else, did you?**
24 **I didn't hear you, I'm sorry.**
02:27PM 25 A No.

1 MR. FLANGAS: I'm just going to object to relevance to
2 all of this as it relates to Maryanne Phillips.
3 THE HEARING OFFICER: Mr. White?
4 MR. WHITE: I'm sorry. It relates to Maryanne Phillips
02:27PM 5 because she's claiming to not have any responsibility, and he was
6 never there.
7 She has been claiming to have no responsibility for
8 anything that has happened, and he was never there and was
9 supposedly the medical director for about a month, which I'm going
02:27PM 10 to get, I'm going to find out exactly what days in a moment, but
11 somebody had to be in charge.
12 THE HEARING OFFICER: Overruled. You can continue.
13 MR. FLANGAS: Just for the record, the issue of medical
14 director has to do with the responsibility of the custodian of
02:27PM 15 records of the files.
16 You know, for the record, Maryanne has never said she
17 wasn't responsible for the anesthetic part of it.
18 THE HEARING OFFICER: And I get where you are coming
19 from. I get where he's going. And, to me, I think the testimony
02:28PM 20 is relevant.
21 BY MR. WHITE:
22 Q Dr. Borromeo, would you turn to Exhibit 106.
23 Is this the settlement agreement that you signed?
24 I'll direct you to page 2677.
02:28PM 25 A Yes.

1 Q Is that your signature at the bottom there?
2 A Yes.
3 Q You signed that on August 6th, 2021.
4 In that settlement agreement, you actually admitted to
02:29PM 5 all three counts; correct?
6 A Yes.
7 Q And if anybody is following along, it's page 2673, under
8 Consent to Entry of Order.
9 You were ordered to pay a fine of $5,000.
02:29PM 10 A Yes.
11 Q Costs and expenses of the investigation of the matter,
12 which was $1,452.22.
13 A Yes.
14 Q You were to be reported to the National Practitioner
02:30PM 15 Data Bank.
16 You received a letter of reprimand, public letter of
17 reprimand?
18 A Yes.
19 Q And that everything else was dismissed arising from the
02:30PM 20 corresponding investigative case in this matter.
21 Do you have any -- do you have any doubts that this is
22 you, that we're talking about your -- this is your complaint and
23 your settlement agreement?
24 A No.
02:30PM 25 Q No? Okay.

1 MR. WHITE: I move to admit Exhibits 105 and 106.
2 MR. FLANGAS: Same, the -- even before the testimony,
3 and afterwards, the authenticity that this was Dr. Borromeo's
4 complaint and settlement agreement was never at issue.
02:30PM 5 THE HEARING OFFICER: Right.
6 MR. FLANGAS: It's always been about, went to relevance
7 as it relates to the charging document against Dr. Maryanne. And
8 the words and the contents of all of this is not relevant.
9 THE HEARING OFFICER: All right.
02:31PM 10 MR. WHITE: Well, I didn't call him as a witness, so
11 I -- you know.
12 THE HEARING OFFICER: I am going to admit both 105 and
13 106.
14 MR. FLANGAS: Okay.
02:31PM 15 (Exhibits 105 and 106 admitted into evidence.)
16 BY MR. WHITE:
17 Q Dr. Borromeo, what exact, if you can remember -- you
18 said you are worked there a little less than a month. What days
19 did you work there -- or excuse me, not work there -- what days
02:31PM **20 were you medical director?**
21 A I know it's one month.
22 Q Was it the month of June, 2020?
23 A Yes.
24 MR. WHITE: Court's indulgence.
02:32PM 25 THE HEARING OFFICER: Uh-huh.

1 BY MR. WHITE:

2 **Q Dr. Borromeo, you never saw any records, did you?**

3 **Medical records?**

4 A I reviewed some medical records.

02:33PM 5 **Q Oh, yeah? Which ones?**

6 A I know they sent me medical records from the spa. I

7 reviewed it. I don't remember the names of the patients, but

8 there were at least at three --

9 THE HEARING OFFICER: Dr. Borromeo, can you repeat what

02:33PM 10 you said. I think you said at least a certain number of patients.

11 Neither the court reporter nor I heard your answer there.

12 THE WITNESS: At least 20 medical records that I

13 reviewed from the spa.

14 BY MR. WHITE:

02:34PM 15 **Q Can you estimate how many patients?**

16 A About 20.

17 **Q And out of those 20 you can't remember one name?**

18 A I can't remember the name. Sorry.

19 **Q You said they were sent to you?**

02:34PM 20 A Correct.

21 **Q How were they sent?**

22 A It's a photocopy.

23 **Q Photocopy?**

24 A Yes.

02:34PM 25 **Q Did somebody hand-deliver them? That's what I mean, how**

1 **did you receive them?**

2 A Hand-delivered.

3 **Q Okay. What did you do with them when you saw them?**

4 A I looked at them, I saw they were medical records,

02:35PM 5 patients that they have seen in the Vida Spa.

6 **Q And what would you do with them?**

7 A I know I kept it in the office, in one of the binders.

8 **Q Okay. Do you still have that binder?**

9 **I'll say it again. Do you still have that binder?**

02:35PM 10 A I know I put it in the back -- I have a -- like a

11 cabinet at the back of my room.

12 **Q Right. So you had your own set of copies?**

13 A Yes.

14 **Q You weren't aware that they were using propofol as**

02:36PM 15 **general anesthesia there?**

16 A No.

17 **Q No? Because they probably weren't in the records, were**

18 **they?**

19 MR. FLANGAS: I'll object.

02:36PM 20 MR. WHITE: What is it?

21 MR. FLANGAS: Speculation.

22 MR. WHITE: Well, I think he told me -- all right. Hold

23 on.

24 THE HEARING OFFICER: I will sustain that.

02:36PM 25 MR. WHITE: As speculation?

1 THE HEARING OFFICER: You can -- you can, I think, ask a
2 question to get your point across without asking him to speculate.
3 BY MR. WHITE:
4 **Q You didn't see -- you just said you didn't know they**
02:36PM 5 **were using propofol as general anesthesia at the facility, Vida**
6 **Spa.**
7 A No, I don't.
8 **Q But you also just said you received at least 20 sets of**
9 **records for 20 different patients.**
02:37PM 10 A Yes.
11 **Q And you reviewed them?**
12 A I did.
13 **Q And you never saw propofol listed in those medical**
14 **records?**
02:37PM 15 A I do not remember, with those records.
16 **Q Okay. So -- but you did review them and you kept a**
17 **binder?**
18 A Yes. I did review those records, correct.
19 **Q But you didn't call the facility and say "These medical**
02:37PM 20 **records look fine," you didn't do anything like that as medical**
21 **director, did you?**
22 **I didn't hear you. Sorry.**
23 A No, did not.
24 **Q You also were not -- do you understand what a custodian**
02:38PM 25 **of records is?**

1 A Say it again, please.

2 **Q Do you understand what the term "custodian of records"**

3 **means?**

4 A Custodian, yes. You have to keep the records in the

02:38PM 5 same place.

6 **Q Yeah. Like you might be the custodian of records for**

7 **your own practice; correct? I don't know if you are, but you**

8 **might be.**

9 A Yes. Yes, we keep records, the charts.

02:38PM 10 **Q You were not the custodian of records for Vida Spa?**

11 MR. FLANGAS: I'll object. It calls for speculation.

12 MR. WHITE: I think he would know if he was the

13 custodian of records for Vida Spa.

14 MR. FLANGAS: Well, it's assuming facts that aren't in

02:39PM 15 evidence. He said --

16 MR. WHITE: I'm getting in evidence.

17 MR. FLANGAS: You're telling him he's not.

18 MR. WHITE: I'm allowed to ask leading questions.

19 THE HEARING OFFICER: Yeah, overruled.

20 BY MR. WHITE:

21 **Q You were not the custodian of records for Vida Spa?**

22 A No.

23 **Q Based on your testimony so far, you did not did direct**

24 **Vida Spa or any staff there to have a separate log for propofol**

02:40PM 25 **sedation?**

1 A No.

2 **Q Dr. Borromeo, I would ask you to take a look at**

3 **Exhibit 11. I'll give you a minute.**

4 **Now I will submit that those dates are not when you were**

02:41PM 5 **the medical director, but have you ever seen anything like that**

6 **before?**

7 MR. FLANGAS: Objection, as far as I don't understand

8 what the question is.

9 THE HEARING OFFICER: Why don't you clarify.

02:41PM 10 MR. WHITE: Oh, to form. Okay.

11 BY MR. WHITE:

12 **Q I'll represent, Dr. Borromeo, that has been admitted and**

13 **it is a -- it is a sedation log sheet. And if you notice, the**

14 **second column on the left has propofol listed for every single**

02:42PM 15 **patient there.**

16 A Yes.

17 **Q When you were receiving medical records from Vida Spa,**

18 **did you ever see anything like that?**

19 A No.

02:42PM 20 **Q No. Thank you. You had mentioned earlier on direct**

21 **examination from Mr. Flangas it was represented to you by Gisselle**

22 **that she was properly licensed?**

23 A Yes.

24 **Q What did you mean by your answer, "properly licensed"?**

02:43PM 25 **What kind of license?**

1 A Medical spa.

2 **Q To be a spa?**

3 A Correct.

4 MR. FLANGAS: He said "medical spa."

02:43PM 5 MR. WHITE: Medical spa. Thank you.

6 BY MR. WHITE:

7 **Q But you don't know if they were licensed to do general**

8 **anesthesia there, do you?**

9 A No.

02:44PM 10 **Q What did you think at the time when you were medical**

11 **director, or at least the time you signed the contract, what did**

12 **you think was -- what kind of treatments did you think they were**

13 **doing at Vida Spa?**

14 A I thought they were just doing facial, Botox injection,

02:45PM 15 thermal ablation. That's the extent that I thought they were

16 doing.

17 **Q You said you went to Vida Spa one time, correct?**

18 A Correct.

19 **Q What was happening when you went that day?**

02:45PM 20 A I remember there was -- there was no scheduled patient

21 they had there.

22 **Q Did anybody offer to take you around and show you the**

23 **whole facility?**

24 A I saw part of the facility --

02:45PM 25 **Q Did you --**

1 A -- myself.

2 **Q Oh, sorry, I didn't want to talk over you.**

3 **Go ahead.**

4 A Not the whole facility.

02:45PM 5 **Q Fair to say you didn't see a room where they do**

6 **surgeries?**

7 A No, I did not see that.

8 **Q And as a doctor, you would recognize a room that they**

9 **did surgeries, wouldn't you?**

02:46PM 10 A Correct.

11 **Q How do you know you didn't see the entire facility?**

12 A Just I found out there's no scheduled admissions. I

13 said okay.

14 And then I just said hi and bye to Dr. Phillips.

02:46PM 15 **Q Was Gisselle Platfoot there that day too?**

16 A No, she was not there.

17 **Q Did you ask Dr. Phillips what she does there?**

18 A No, I did not ask.

19 **Q Now that was just a quick hello and goodbye?**

02:47PM 20 A Yes.

21 **Q Did you know Dr. Phillips before that encounter?**

22 A A week or two ago she dropped by at my office and said

23 hi. That was the first time I met her.

24 **Q Dr. Phillips did?**

02:47PM 25 A Yes, she did.

1 **Q Did you -- did you know what she did, what her specialty**
2 **was at that time?**
3 A Did not.
4 **Q Did you know what she -- why she was working for Vida**
02:47PM 5 **Spa and what she was going to be treating?**
6 A I did not ask those questions.
7 **Q Was Dr. Phillips already working there when you signed**
8 **on as medical director?**
9 A That was what I understood, she was already working at
02:48PM 10 the spa.
11 **Q You had stated before that you really thought your role**
12 **was just to provide prescriptions, correct?**
13 A Just overall director of spa. That's what I was led to
14 believe.
02:49PM 15 **Q But you never supervised Dr. Phillips, did you?**
16 A I did not.
17 **Q Why did you resign from being medical director?**
18 A I found out that there's -- they did a procedure,
19 liposuction. For me, that was -- I did not -- thought that was
02:49PM 20 being done, and I got concerned. And so I called Gisselle, I said
21 I don't feel comfortable continuing my medical directorship. So I
22 resigned before the end of June.
23 **Q So, to clarify, you resigned because you were concerned**
24 **there were liposuctions being done there and you didn't sign on**
02:50PM 25 **for that?**

1 MR. FLANGAS: I'll object. That's not what he stated.
2 MR. WHITE: I'm just --
3 MR. FLANGAS: That's part of what he stated. He said
4 that there a procedure where there was a problem, something to
5 that effect.
6 THE HEARING OFFICER: Why don't you --
7 MR. WHITE: I thought he said liposuctions. That's why
8 I'm trying to clarify.
9 MR. FLANGAS: Yeah, he did say a liposuction but he was
02:50PM 10 talking about a specific procedure with Patient TTT.
11 MR. WHITE: I thought he said more than one liposuction.
12 BY MR. WHITE:
13 **Q Was there more than one liposuction that concerned you?**
14 A Just one.
02:50PM 15 **Q Just one.**
16 **Is it the one that you put in your affidavit on page 6**
17 **of Respondent's Exhibit R?**
18 A Yeah.
19 **Q Okay.**
02:51PM 20 A That's the one, yes.
21 **Q Okay. So I just want to ask you the question then, were**
22 **you aware there were other liposuctions going on?**
23 A No.
24 **Q And Dr. Borromeo, you -- I think we might have -- this**
02:51PM 25 **may be something you've already answered. I just want to make**

1 sure we've got it all clear.

2 You never saw any patients at Vida Spa?

3 A No. No.

4 Q Other than the one time that you spoke to Dr. Phillips,

02:52PM 5 who did you actually communicate with at Vida Spa?

6 Actually, let me rephrase that question.

7 Who was your contact at Vida Spa, as being -- that you

8 signed a contract to be a medical director?

9 A Gisselle.

02:53PM 10 Q You had said at the beginning of your direct examination

11 with Mr. Flangas that the reason you found out about this was a

12 former nurse practitioner?

13 A Correct.

14 Q And that person is in your affidavit, correct?

02:53PM 15 A Correct.

16 Q And that is Charmaine -- I don't know how to say her

17 last name, Porcii?

18 A "Por-see."

19 Q "Por-see."

02:53PM 20 THE HEARING OFFICER: And will one --

21 THE WITNESS: P-O-R-C-C-I.

22 MR. WHITE: Yeah, for the record, that's line one of

23 Exhibit R for the Respondent.

24 THE HEARING OFFICER: Did you get the spelling?

02:53PM 25 THE REPORTER: Thank you.

1 BY MR. WHITE:

2 **Q So sounds like she used to work for you?**

3 A Yes.

4 **Q And then was she working at Vida Spa when she contacted**

02:54PM 5 **you?**

6 A Yes.

7 **Q Did you ask her a lot of questions about Vida Spa?**

8 A I know she's interested in doing cosmetic procedures,

9 that's -- like, when she left my practice, she went into cosmetic

02:54PM 10 training.

11 **Q Probably goes without saying, but she didn't tell you**

12 **there were surgeries going on there for liposuction, fat**

13 **transfers?**

14 A No.

02:55PM 15 **Q No.**

16 MR. WHITE: Indulgence, please.

17 BY MR. WHITE:

18 **Q Dr. Borromeo, did it ever concern you that a medical**

19 **director named Dr. Maryanne Phillips was working at Vida Spa, yet**

02:56PM 20 **you were asked to write prescriptions?**

21 A I didn't realize that she wasn't prescribing at that

22 time.

23 MR. WHITE: I think that's all I have now.

24 Pass the witness.

02:57PM 25 THE HEARING OFFICER: Redirect?

1 MR. FLANGAS: Yeah.

2

3 REDIRECT EXAMINATION

4 BY MR. FLANGAS:

02:57PM 5 **Q Dr. Borromeo, there were other medical directors that**

6 **signed contracts with Gisselle; are you aware of that?**

7 A No, I'm not aware and didn't ask.

8 **Q Okay. Next question is, my understanding from your**

9 **complaint and the settlement is that you can't prescribe**

02:57PM 10 **controlled substances -- or controlled narcotics, I guess you call**

11 **them -- at a facility, unless it's a medical facility; correct?**

12 A Say that again, please.

13 **Q The prescriptions that you were writing at Vida Spa,**

14 **Vida Spa needed licensing to be a medical spa in order for the**

02:58PM 15 **prescriptions that you were writing be legitimate, or not**

16 **violating the law; correct?**

17 A Correct.

18 MR. WHITE: I'm going to object because there's actually

19 nothing called a medical spa, there's actually nothing in the

02:58PM 20 statutes, so I think you need to -- I'll object as to form.

21 MR. FLANGAS: Okay.

22 BY MR. FLANGAS:

23 **Q Medical facility. When I say "medical spa," I mean**

24 **"medical facility." You understand that, correct?**

02:59PM 25 A Correct.

1 **Q Okay. And so at the medical facility -- okay.**
2 **You were getting sent medical records. Who was sending**
3 **you the medical records from Vida Spa?**
4 A Vida Spa, for -- I understand it's one of the workers or
02:59PM 5 medical assistants that hand-delivers some of these records for
6 review.
7 **Q Okay. And was it your understanding -- you said that**
8 **you had the records, you had the patient records during the time**
9 **you were the medical director; is that correct?**
02:59PM 10 A Yes.
11 **Q Okay. But you also said you weren't technically the**
12 **custodian of records.**
13 **Who was, your understanding, the custodian of records**
14 **for Vida Spa?**
02:59PM 15 A Vida Spa, or the owner.
16 **Q Yeah, the owner. And the owner is who?**
17 MR. WHITE: I'm going to object. It calls for
18 speculation. I don't think he knows. He wasn't even there. How
19 would he know who was custodian of records there.
03:00PM 20 THE HEARING OFFICER: Well, let's clarify that, why
21 don't you.
22 BY MR. FLANGAS:
23 **Q You signed a contract with Vida Spa and Gisselle**
24 **Platfoot; correct?**
03:00PM 25 A Correct.

1 **Q Okay. And based on your understanding, even though you**
2 **got copies of the medical records, are you saying it's your**
3 **understanding that Vida Spa and the owner of Vida Spa would be the**
4 **custodian of records?**
03:00PM 5 MR. WHITE: Objection. Leading. And speculation.
6 MR. FLANGAS: That's what he testified to.
7 MR. WHITE: And speculation.
8 No, he didn't.
9 THE HEARING OFFICER: Overruled. You can answer that
03:00PM 10 question, Dr. Borromeo.
11 THE WITNESS: I -- to my understanding, they would be
12 the one keeping the records at the facility.
13 BY MR. FLANGAS:
14 **Q Okay. And that's the owner of Vida Spa, correct?**
03:01PM 15 MR. WHITE: Objection. Leading.
16 THE HEARING OFFICER: Because of the back and forth,
17 here, I'm going to allow it to go.
18 BY MR. FLANGAS:
19 **Q You can answer.**
03:01PM 20 A Yes.
21 **Q On the medical records that you received, you said you**
22 **don't remember seeing propofol on there.**
23 **The question is, could someone --**
24 MR. WHITE: Objection. Assumes facts not in evidence.
03:01PM 25 He didn't say he doesn't remember; he says he didn't see them.

1 MR. FLANGAS: That's not correct. That's not the way I
2 remember what he said. Okay.
3 BY MR. FLANGAS:
4 **Q Could there have been writings that propofol was given**
03:01PM 5 **to some of the patients in the medical records you saw?**
6 A I don't recall seeing propofol in the records I
7 received.
8 **Q Okay. And you don't know which medical records you**
9 **received?**
03:02PM 10 A No, I don't.
11 **Q Okay. And Tammy Hinches -- Hankins.**
12 **Tammy Hankins, she was a physician's assistant; correct?**
13 A Yes.
14 **Q Okay. I'm going to direct you to Exhibit L in my book.**
03:02PM 15 **Do you see Exhibit L?**
16 A Yes.
17 **Q Is that a -- your contract with Vida Spa?**
18 A Yes.
19 **Q Okay. And according to your contract, you were going to**
03:03PM 20 **supervise and oversee the business, correct?**
21 A Correct.
22 **Q And you were going to supervise the physician assistant,**
23 **Tammy Hankins, correct?**
24 A Yes.
03:03PM 25 **Q One last question.**

1 **Was it -- you said were you given a tour of Vida Spa.**
2 **Was it Charmaine that gave you the tour?**
3 A No, one of the medical assistants.
4 **Q Okay. Did you meet with Gisselle someplace else besides**
03:03PM 5 **the medical facility?**
6 A She's been to my office.
7 **Q Okay. She came to your office, and that's where you cut**
8 **the deal with her; correct?**
9 A Correct.
03:04PM 10 **Q You know, just for the record, page -- Exhibit L. Could**
11 **you go to page -- on Exhibit L, can you go to page -- actually,**
12 **just page 117 and 118, I would admit that into evidence, as his**
13 **contract.**
14 THE HEARING OFFICER: Any objection?
03:04PM 15 MR. WHITE: Say that, again? I'm sorry. Oh, the
16 contract?
17 MR. FLANGAS: Yeah.
18 THE HEARING OFFICER: But he's only asking, at least so
19 far --
03:04PM 20 MR. FLANGAS: There's some other pages there that I'm
21 not --
22 THE HEARING OFFICER: So he's only asking the first two
23 pages.
24 MR. WHITE: We're looking at pages 117 and 118?
03:04PM 25 MR. FLANGAS: Yeah, just the first two pages. I don't

1 even know what the other pages are.
2 MR. WHITE: I have no objection.
3 THE HEARING OFFICER: All right. So Defense Exhibit L
4 is admitted.
03:05PM 5 MR. WHITE: Is it just pages 117 or 118?
6 MR. FLANGAS: Yeah.
7 THE HEARING OFFICER: And so we're going to remove the
8 rest.
9 MR. WHITE: You can put the whole thing in there.
03:05PM 10 MR. FLANGAS: It doesn't matter, it's just public stuff.
11 One says prescription or some type of -- one is a printout saying
12 he's a doctor. It's up to you, Don, and then there's some statute
13 in there, I --
14 MR. WHITE: I'm fine with that. I mean, I can tell you
03:05PM 15 that the printout of him looks like it came off our website, so --
16 THE HEARING OFFICER: So we'll just leave it as it
17 originally was.
18 MR. WHITE: Yeah, that's all right.
19 MR. FLANGAS: Okay.
20 (Exhibit L admitted into evidence.)
21 MR. FLANGAS: That's all.
22 THE HEARING OFFICER: All right. Any further --
23 MR. FLANGAS: What about the declaration? Do you want
24 to let it in, since he testified?
03:06PM 25 MR. WHITE: His affidavit?

1 MR. FLANGAS: Yeah.
2 MR. WHITE: Yeah, I have no problem with that. No
3 objection, in legal terms.
4 MR. FLANGAS: That's Exhibit R.
03:06PM 5 THE HEARING OFFICER: R. So Defense R is in.
6 (Exhibit R admitted into evidence.)
7 MR. FLANGAS: Okay.
8 MR. WHITE: Can I do a little recross?
9 THE HEARING OFFICER: Do you have some further recross?
03:06PM 10 MR. WHITE: Yeah.
11
12 RECROSS-EXAMINATION
13 BY MR. WHITE:
14 Q Dr. Borromeo, you didn't have any other contact with
03:06PM **15 Vida Spa except for that month you were the medical director;**
16 would that be correct?
17 A Correct.
18 Q So Mr. Flangas's question is if you were aware of any
19 other medical directors. I think you said you are not aware of
03:07PM **20 any.**
21 A No.
22 Q You had said -- we had a little back and forth going on,
23 on who was keeping track of the records at Vida Spa. You said
24 "they kept the records." Do you just mean Vida Spa, in general?
03:07PM 25 A Yes.

1 **Q In fact, you did not see who had a key to a cabinet, or**
2 **you didn't see anybody put records away there, did you?**
3 A Did not.
4 **Q So you have no personal knowledge of who was the**
03:07PM 5 **custodian of records at Vida Spa?**
6 MR. FLANGAS: I'll object. That's --
7 MR. WHITE: That's what?
8 MR. FLANGAS: You said that he doesn't know who had the
9 key, but then you talk -- okay. Go ahead. I'll --
03:07PM 10 THE HEARING OFFICER: Withdraw?
11 MR. FLANGAS: I think, yeah, the evidence -- you've got
12 evidence going all the way. I think you can figure out. I'll
13 withdraw it. How is that?
14 THE HEARING OFFICER: That works.
03:08PM 15 BY MR. WHITE:
16 **Q Lets see how to phrase this.**
17 **Dr. Borromeo, you're a doctor. What is your specialty?**
18 A Internal medicine and cardiovascular.
19 **Q Do you have your own practice or do you work in a group?**
03:08PM 20 A I have my solo practice.
21 **Q Do you have a custodian of records there?**
22 A Yes.
23 **Q Someone else does it for you and they keep those**
24 **records?**
03:09PM 25 A Correct.

1 **Q Is it on site or somewhere else?**
2 A On site.
3 **Q Before you send those records, or before they are put**
4 **away and you give them to the custodian of records in your office,**
03:09PM 5 **you make sure they are accurate?**
6 MR. FLANGAS: I'll just object to relevancy on all of
7 this.
8 THE WITNESS: Yes.
9 THE HEARING OFFICER: Overruled.
03:09PM 10 BY MR. WHITE:
11 **Q Complete? Yeah?**
12 A Yes.
13 **Q So you take some pride in your records and it's**
14 **important to have accurate, complete records?**
03:09PM 15 A That's correct.
16 MR. WHITE: Okay. That's all I have. Thank you.
17 MR. FLANGAS: I just have one question.
18
19 FURTHER REDIRECT EXAMINATION
20 BY MR. FLANGAS:
21 **Q The one question is: Charmaine, she's a nurse**
22 **practitioner; is that correct?**
23 A Yes.
24 **Q And isn't it true she became the medical director, after**
03:10PM 25 **you resigned, for Vida Spa?**

1 A I don't know about that.
2 MR. FLANGAS: Okay. That's all.
3 THE HEARING OFFICER: All right. Is this witness going
4 to be excused, or is he subject to recall here?
03:10PM 5 MR. WHITE: I would excuse him.
6 MR. FLANGAS: I'll excuse him.
7 MR. WHITE: Yeah, I'm fine with that, too.
8 THE HEARING OFFICER: Dr. Borromeo, thank you very much
9 for your testimony, sir. You are free to go.
03:10PM 10 THE WITNESS: Thank you.
11 MR. FLANGAS: Thank you, Doc.
12 THE HEARING OFFICER: Do you have some more folks down
13 there?
14 MR. FLANGAS: I have Dr. Sheep down there.
03:10PM 15 THE HEARING OFFICER: Wonderful. Ready for a break?
16 Let's go off the record.
17 (A recess was taken.)
18 THE HEARING OFFICER: Good afternoon, Dr. Sheep. Can
19 you hear me?
03:19PM 20 THE WITNESS: Yes, I can. Good afternoon.
21 THE HEARING OFFICER: Good afternoon. My name is
22 Charles Woodman. I am the hearing officer assigned to preside
23 over this case. We're in the medical board's office up in Reno.
24 Present here with me is Mr. White. He is the attorney
03:20PM 25 for the medical board.

1 Mr. Flangas is here. He is the attorney representing
2 Dr. Phillips, who is present. And one of Mr. Flangas's associates
3 is present with us -- Ms. Smith, I believe, right?
4 MS. SMITH: Uh-huh.
03:20PM 5 THE HEARING OFFICER: And our court reporter is here.
6 And, sir, we appreciate you giving time to help us out
7 today.
8 To get you started, if you'll raise your right hand, I'm
9 going to have our reporter swear you.
10
11 ANDREW SHEEP, M.D.
12 called as a witness, having been duly sworn,
13 testified by videoconference as follows:
14
03:20PM 15 THE HEARING OFFICER: Thank you, sir. The only special
16 request I have here at the outset is in order to allow our
17 reporter to get a good, accurate record here without us all
18 speaking over each other, make sure you wait until the lawyers
19 finish asking their question before you start to answer, and we'll
03:21PM 20 try and make sure they don't step on any of your answers.
21 THE WITNESS: Understood.
22 THE HEARING OFFICER: Thank you. All right.
23 Mr. Flangas.
24
25 ///

1 DIRECT EXAMINATION

2 BY MR. FLANGAS:

3 **Q Thank you, Dr. Sheep, for coming in.**

4 A You're welcome.

03:21PM 5 **Q Okay. All these questions revolve around Vida Spa.**

6 **So the first question is when did you first come in --**

7 THE HEARING OFFICER: Let's get his name, official, for

8 the record.

9 MR. FLANGAS: So we didn't do --

03:21PM 10 BY MR. FLANGAS:

11 **Q Can you please state your name for the record, and spell**

12 **it.**

13 A Andrew Sheep. A-N-D-R-E-W. Last name, S-H-E-E-P.

14 **Q Okay. Thank you.**

03:21PM 15 **And what type of doctor are you?**

16 A I am an emergency medicine physician.

17 **Q And how long have you been an emergency medicine**

18 **physician?**

19 A I graduated in the end of June, 2015.

03:22PM 20 **Q Okay. Great. And have you worked in Las Vegas the**

21 **whole time?**

22 A No, I've worked in Las Vegas since the fall of 2019.

23 **Q Okay. Great. Did there come a time you came into**

24 **contact with someone over at Vida Spa?**

03:22PM 25 A Yes. I think it was -- I want to say it was the very

1 end of 2019, when I first got in contact with Gisselle.

2 **Q Okay. And who is, for the record, who is Gisselle?**

3 A I believe her name is Gisselle Platfoot. She was the --

4 I don't know her exact role at Vida Spa. I want to say she was

03:22PM 5 the marketing manager there and maybe a co-owner.

6 **Q Okay. So as far as you know, she marketed for them and**

7 **she might have been an owner; correct?**

8 A I believe so, yes.

9 **Q Is that the person that you negotiated with, with your**

03:23PM 10 **contract, with Vida Spa?**

11 A So I actually don't recall that I ever officially signed

12 a contract with Vida Spa, but yes, it is. She was who I

13 negotiated with.

14 **Q Okay. And do you remember when was it that you actually**

03:23PM 15 **negotiated some type of deal with her?**

16 A My initial contact with her was in 2019, when I got

17 interested in performing liposuction. I observed a couple of

18 procedures, but then decided against working with her at that

19 time.

03:23PM 20 I believe the next time we officially started working

21 together was in the summer of 2020, I want to say.

22 **Q If I said 2021, would that --**

23 A Maybe it was 2020 -- sorry, I think COVID is messing

24 everything up. Yeah, maybe it was 2021.

03:24PM 25 MR. WHITE: I'm sorry, who is "she" we're talking about?

1 MR. FLANGAS: Gisselle Platfoot.
2 THE WITNESS: Gisselle Platfoot.
3 MR. WHITE: Okay. Okay. Thank you.
4 BY MR. FLANGAS:
03:24PM 5 **Q So you knew about Vida Spa for a couple of years before**
6 **you started working there, correct?**
7 A I did.
8 **Q I did. And what was your deal with Gisselle Platfoot**
9 **and Vida Spa?**
03:24PM 10 A When I officially decided to work there, it was
11 essentially working as, like, an independent contractor. I would
12 work a liposuction and she would pay me for it.
13 **Q So it was like a per diem for each?**
14 A In essence, yes.
03:24PM 15 **Q At that time did you ever come in contact with**
16 **Dr. Maryanne Phillips?**
17 A Yes.
18 **Q When was that? Was that in 2021 also?**
19 A It was.
03:25PM 20 **Q Okay. Was Dr. Maryanne Phillips, do you know whether**
21 **she gave her resignation, or what was going on with her in Vida**
22 **Spa?**
23 A When I first met her, to my knowledge, she was fully
24 employed there.
03:25PM 25 **Q Okay. And so do you know who -- do you know who the**

1 **medical director was of Vida Spa?**

2 A I never met the medical director. I want to say it was

3 Dr. -- starts with a B. I honestly can't remember the name.

4 **Q Okay. And where did you learn that information from?**

03:25PM 5 **From Gisselle Platfoot?**

6 A From Gisselle, that's correct.

7 **Q All -- is it safe to say or fair to say most if not all**

8 **of the information you learned about Vida Spa was through your**

9 **contact with Gisselle Platfoot?**

03:26PM 10 A Pretty much everything I learned was from Gisselle, yes.

11 **Q Did you know a Charmaine?**

12 A Yes.

13 **Q Did you know --**

14 A -- Porcii.

03:26PM 15 **Q -- whether she was also a medical director there?**

16 A So my understanding at the time, what Charmaine told me

17 was that she was the medical director for injections, and that the

18 other doctor was the medical director for everything else.

19 **Q Okay.**

03:26PM 20 A At least that was my understanding at the time.

21 MR. WHITE: I'm sorry, for clarifying. Who is "she"?

22 Who is he speaking of when he says "she"? I would just like to --

23 BY MR. FLANGAS:

24 **Q Were you talking to Charmaine about that?**

03:27PM 25 A Yeah. Yeah, Charmaine. My understanding was Charmaine

1 was the medical director for injections, and that Dr. B was the
2 medical director for everything else. That was my understanding
3 at the time.
4 MR. WHITE: Dr. B? Or Borromeo?
03:27PM 5 MR. FLANGAS: He doesn't remember.
6 THE WITNESS: Borromeo.
7 MR. WHITE: Oh, I'm sorry. Okay. I'm sorry.
8 BY MR. FLANGAS:
9 Q When you went in 2019, did they tell you who the medical
03:27PM **10 director was then?**
11 A To be completely honest, I cannot recall who the medical
12 director was at the time. Yeah, I'm not sure who it was when I
13 first went there.
14 Q Does a Sherman Washington ring a bell at all, that name?
03:27PM 15 A I've heard that name. I've never met Mr. -- or is that
16 a doctor?
17 I've never met Sherman Washington. I've heard that name
18 but I don't honestly recall how I've heard that name.
19 Q How about a Dr. Kiarash Mirkia, as a medical director?
03:28PM 20 A I've never heard of that name.
21 Q Okay. And when you were working there doing the lipo,
22 who was administering the propofol?
23 A It was Dr. Phillips, and then I believe it was the
24 nurse -- one of the nurses named Kim, under Dr. Phillips'
03:28PM 25 direction.

1 **Q Right. And that was a registered nurse working the**
2 **machine there?**
3 A I believe so.
4 **Q Okay. And after -- how many weeks or months did you**
03:29PM 5 **work there?**
6 A Maybe around six weeks. I think it was five or six
7 weeks.
8 **Q Okay. And did anyone -- when you went and got hired**
9 **there, what was your understanding about medical -- the facility's**
03:29PM 10 **licensing to do these proceedings?**
11 A My under- -- yeah, so -- it was, when I spoke with
12 Ms. Platfoot, she said that the facility was registered for
13 sedation and for propofol.
14 And I asked for, you know, is there -- do we have
03:29PM 15 paperwork? And she showed me a -- it was like a framed piece of
16 picture that, to me, looked legitimate.
17 In retrospect, I'm not exactly -- I can't remember what
18 that paper said, but Gisselle made every -- basically, Gisselle
19 told me that everything was on the up-and-up, in terms of being
03:30PM 20 certified, including using propofol.
21 **Q Okay. And including doing lipo?**
22 A That is correct.
23 **Q Okay. Do you even know, you know, as a doctor, do you**
24 **even know what facility licensing a medical facility needs to be**
03:30PM 25 **able to do that stuff?**

1 A Embarrassingly, no, I don't.
2 **Q Okay. It's actually not -- most people don't, but --**
3 **okay.**
4 A I know a greater deal now than I did then.
03:30PM 5 **Q Right. Now you know, you know, what type of --**
6 **generally, what type of licenses you need, right?**
7 A In general, yes.
8 **Q Okay.**
9 A Although honestly, if I were -- I'm not involved with
03:31PM 10 aesthetic medicine anymore, but if I were, I'd most certainly, you
11 know, do my homework in terms of contacting the medical board.
12 **Q And that's in retrospect, after going through this whole**
13 **situation; correct?**
14 A Correct.
03:31PM 15 **Q Okay. And did you know, were there other doctors or**
16 **nurses working there at the time you worked there? And even in**
17 **20- --**
18 A To my knowledge --
19 **Q -- and even in 2019, because you had been there before?**
03:31PM 20 A So when I was actually performing liposuction there, to
21 my knowledge, it was just myself and Dr. Phillips actually
22 performing the procedures.
23 **Q Okay. And what about in 2019?**
24 A 2019, they had a -- I observed -- I believe, twice I
03:32PM 25 observed Tammy, I can't recall her last name. She was, I believe,

1 a PA.

2 And then I believe I also observed a plastic surgeon who

3 was working there at the time.

4 **Q Do you remember his name? Was he a black guy?**

03:32PM 5 A No, he was white.

6 **Q Dr. Costa?**

7 A That's it.

8 **Q And he was performing liposuction there?**

9 A That's correct.

03:32PM 10 **Q Okay. During the five weeks that you were working**

11 **there, the medical records, who was in charge of that?**

12 A Well, the understanding that I had at the time was that

13 I would be in charge of the medical records for the procedure, but

14 not for the sedation.

03:33PM 15 **Q Okay. That was your deal with Gisselle Platfoot?**

16 A That's correct.

17 **Q Okay. So where did you keep your medical records?**

18 A They were, to my knowledge, they were kept at Vida Spa.

19 **Q Okay. And who had custody of those medical records?**

03:33PM 20 A Hm. I think they, from my under- -- from my

21 recollection, they were kept in a -- like a drawer, where all the

22 patient medical records were kept.

23 I want to say -- I can't exactly remember where in the

24 facility they were kept.

03:34PM 25 **Q Okay. Did you have an actual written contract with**

1 **Gisselle Platfoot and Vida Spa?**

2 A I never did.

3 Oh, wait. Hold on.

4 I actually -- I can't remember. I don't know. I don't

03:34PM 5 think I did.

6 **Q Okay. That's fair.**

7 **So it's your understanding, based on your agreement with**

8 **Gisselle, your verbal agreement, you're in charge of your medical**

9 **records, but they were going to keep them?**

03:34PM 10 A That's correct. That was my understanding.

11 **Q Okay. Finally, the last question is: You never would**

12 **have started working there if you thought that that place was not**

13 **licensed or there was a problem; is that correct?**

14 A Absolutely correct.

03:35PM 15 **Q Okay. You didn't get any inkling that there was an**

16 **issue; is that correct?**

17 A I did not.

18 **Q Okay. Matter of fact, in 2019, there were different**

19 **plastic surgeons working there?**

03:35PM 20 MR. WHITE: Objection. Leading.

21 MR. FLANGAS: Okay. That's it.

22 THE HEARING OFFICER: Sustained.

23 MR. FLANGAS: That's all. Thank you.

24 THE HEARING OFFICER: All right. Dr. Sheep, the

03:35PM 25 attorney, now, Mr. White, who represents the medical board, will

1 have the opportunity to ask you questions.

2 THE WITNESS: Yes, sir.

3

4 CROSS-EXAMINATION

5 BY MR. WHITE:

6 **Q Dr. Sheep, you just testified that you were in charge of**

7 **your own records, but not the records of the anesthesiologist;**

8 **correct?**

9 A That is correct.

03:36PM 10 **Q And so they were kept separately?**

11 A To my knowledge they were, yes.

12 **Q How exactly did it work when you were saying that you**

13 **were in charge of your own records, but then they were -- were**

14 **they given to somebody?**

03:36PM 15 A So whenever a patient came in, we started a medical

16 record. We documented, you know, what procedures were done, what

17 medications were given.

18 And then we would keep them in a folder, put the folder

19 in a -- like a bin where all the patient medical records were

03:37PM 20 accessible, if the patient ever came in again.

21 **Q Okay. But you weren't in charge of putting those there?**

22 A I was not, no.

23 **Q Did you keep your own records or did somebody take down**

24 **records for you while you were doing your procedure?**

03:37PM 25 A When you -- for clarification, do you mean did I take

1 any medical records home with me?

2 **Q No, I'm sorry. Let me rephrase.**

3 **So you did liposuctions; right?**

4 A Yes.

03:37PM 5 **Q Okay. So when you were doing liposuctions, obviously**

6 **you are busy with that, are you telling a nurse what to write**

7 **down, they are monitoring things?**

8 A Oh, I understand what you are saying. That is correct,

9 yes.

03:37PM 10 We had -- we basically gave an outline of what to

11 document. The nurse would add whatever was given to the record.

12 And then I think I would, you know, basically, at the end, you

13 know, write, you know, "the patient did well, tolerated

14 everything, follow up in this amount of time," and then sign it.

03:38PM 15 **Q Okay. And you said you did work with Dr. Phillips,**

16 **right?**

17 A That is correct.

18 **Q And I think you mentioned before that there was a nurse**

19 **practitioner. What were they doing? Were they monitoring the**

03:38PM 20 **machine that provides propofol?**

21 A That is correct, yes. They were monitoring. So we

22 monitored vital signs throughout the entire procedure, including

23 heart rate, pulse oximetry. And the nurse was the one giving the

24 propofol.

03:38PM 25 **Q Okay. And you had said "under the direction of**

1 **Dr. Phillips," correct?**
2 A That was my understanding.
3 **Q You saw it?**
4 A Yes.
03:39PM 5 **Q Okay. Dr. Phillips was in the room?**
6 A She was.
7 **Q And you know she's an anesthesiologist, right?**
8 A I do.
9 **Q Okay. The nurse practitioner, do you know whether that**
03:39PM 10 **person was a nurse anesthetist or not? If you know.**
11 A I don't.
12 MR. FLANGAS: Objection. Hang on one second.
13 THE HEARING OFFICER: Hold on one second, Dr. Sheep.
14 MR. FLANGAS: What nurse practitioner?
03:39PM 15 MR. WHITE: He's saying that he saw a nurse
16 practitioner.
17 It was your Direct.
18 MR. FLANGAS: It's not a nurse -- it's a registered
19 nurse.
20 MR. WHITE: Oh, registered nurse. Excuse me.
21 Registered nurse.
22 BY MR. WHITE:
23 **Q Do you know if that registered nurse -- so let's replace**
24 **all the "nurse practitioner" I said, with "registered nurse."**
03:39PM 25 **Do you know if that registered nurse was licensed to do**

1 **anesthesia?**

2 A I do not know that.

3 **Q Dr. Sheep --**

4 A Yes, sir.

03:40PM 5 **Q -- were you -- have you testified for the Board?**

6 A My -- I spoke with Mr. Fricke --

7 **Q Actually, that's not my -- sorry. That's not my**

8 **question.**

9 **Did you testify at a hearing for the Board?**

03:40PM 10 A I don't believe I did.

11 **Q Okay. All right.**

12 **Like we're doing now, where you -- did you do anything**

13 **like that?**

14 A Oh, no. Nothing like that.

03:40PM 15 **Q Okay. And you and I have never spoken, right?**

16 A Never.

17 **Q Okay.**

18 MR. WHITE: Indulgence, please.

19 BY MR. WHITE:

03:41PM 20 **Q Dr. Sheep, you had mentioned before -- I want to go back**

21 **to the records -- that you kept your own records while -- you and**

22 **the surgery team kept the records, and then they were placed in a**

23 **drawer.**

24 **But did you make sure those records were accurate,**

03:42PM 25 **complete, before signing off on anything?**

1 A I went through the records, yes.

2 **Q Okay. When those records that came to you, came to you,**

3 **did you check to see what medications were being provided?**

4 A I believe I did, yes.

03:42PM 5 **Q Okay. Did you ever see, or maybe once in a while, did**

6 **you see propofol in those records?**

7 A Honestly, I can't recall. I would have to look at the

8 records.

9 **Q Okay.**

03:42PM 10 A Pardon me.

11 **Q That's okay.**

12 (Cell phone interruption.)

13 MR. WHITE: I'll pass the witness.

14 THE HEARING OFFICER: Redirect?

03:43PM 15 MR. FLANGAS: Yeah, just a couple of questions.

16

17 REDIRECT EXAMINATION

18 BY MR. FLANGAS:

19 **Q I know you haven't seen these medical records for a**

03:43PM 20 **couple of years.**

21 **The medical records are all put -- I mean they are all**

22 **interconnected, like, authorizations, waivers, what the patient**

23 **signs, right?**

24 MR. WHITE: Objection, leading. Objection. Leading.

03:43PM 25 THE HEARING OFFICER: Overruled.

1 THE WITNESS: The medical record includes forms that the
2 patient fills out prior to the liposuction, including consent, you
3 know, possible side effects, things like that.
4 BY MR. FLANGAS:
03:44PM 5 **Q Okay. So the lipo record you're talking about, is there**
6 **a document there that you sign, that you include in with**
7 **everything else, is that what it is, from memory?**
8 A To my knowledge, it was a sheet that we filled -- it was
9 kind of a standardized sheet. It would have the procedure, the
03:44PM 10 areas performed, the amount of fat removed, the medications, you
11 know.
12 At the end you write a little blurb, you know, were
13 there any complications, did the patient tolerate it well, and
14 then you signed your signature.
03:44PM 15 **Q Okay. That's fine. I got it.**
16 **And then that record would go with the rest of the**
17 **patient's file, as far as you know?**
18 A Yeah, as far as I know.
19 **Q And then the company would hang on to it, put it in a**
03:44PM 20 **file cabinet someplace; correct?**
21 MR. WHITE: Objection, leading.
22 THE HEARING OFFICER: Overruled.
23 BY MR. FLANGAS:
24 **Q Is that correct?**
03:44PM 25 A That was may understanding.

1 **Q Okay. I don't know if you are or not -- were you aware**
2 **that the registered nurse working the infusion machine for the**
3 **propofol, whether she was certified to use that machine or not, or**
4 **whether you need certification for that?**
03:45PM 5 A I asked her that question and she told me she was.
6 I did not seek any paper proof, though.
7 **Q Right. But now, in retrospect, you could have checked**
8 **papers the rest of your life, right? On this type of stuff.**
9 A I could have.
03:45PM 10 **Q And, finally, who is Mr. Fricke?**
11 A Oh, I believe -- correct me if I am wrong -- I believe
12 he was the med board attorney before yourself, sir -- Mr. White.
13 **Q Mr. White. Okay.**
14 **And you had conversations with him, or -- what**
03:46PM 15 **transpired there? Actually, guess what. I don't -- it doesn't**
16 **matter. It's not relevant for these proceedings.**
17 MR. WHITE: We might be getting -- I don't know. We
18 might be getting into work product or something like that. I
19 wasn't there. I don't know what took place either.
03:46PM 20 MR. FLANGAS: Okay. That's -- okay.
21 BY MR. FLANGAS:
22 **Q Actually, let me ask you, what transpired with that?**
23 **Did you ever get any complaints or allegations?**
24 MR. WHITE: I'm going to object to that, because you
03:46PM 25 might be going down a road -- some of that stuff is confidential,

1 in the beginning. It kind of goes both ways.
2 MR. FLANGAS: If it's not confidential.
3 MR. WHITE: It works both ways, really, for the doctors,
4 too.
03:46PM 5 THE HEARING OFFICER: Dr. Sheep.
6 THE WITNESS: Yes, sir.
7 THE HEARING OFFICER: Did you ever have any involvement
8 with the medical board that was not protected by confidentiality?
9 THE WITNESS: To be honest, I don't know what the
03:47PM 10 confidentiality status was. So I can't really answer that
11 question.
12 THE HEARING OFFICER: So we're going to go off the
13 record here for a second.
14 (A discussion was held off the record.)
03:49PM 15 THE HEARING OFFICER: All right. We can go back on the
16 record.
17 All right. Dr. Sheep, back to another question or two
18 from Mr. Flangas.
19 MR. FLANGAS: Is the word "formally"?
03:49PM 20 MR. WHITE: Formal complaint or disciplined.
21 BY MR. FLANGAS:
22 Q Dr. Sheep, one last question. Have you ever been
23 formally -- have you ever received a formal complaint or
24 discipline regarding your work at Vida Spa?
03:50PM 25 A There was a formal complaint, so back when I first went

1 in there in 20- -- it was either late 2019 or early 2020, I went
2 to observe Tammy -- again, I can't remember her last name,
3 performing a liposuction.
4 I did not involve myself in that procedure at all.
03:50PM 5 The patient complained about a negative outcome. I
6 believe she complained to the -- it might have been the medical
7 board -- but to my knowledge, I was absolved -- I don't know what
8 the word is -- but nothing was ever followed up on because I had
9 no involvement in that case.
03:50PM **10 Q Okay. That was in 2019?**
11 A It was either late 2019 or early 2020. I want to say it
12 was early 2020, like January.
13 Q Okay. And then in 2021, when you went back for five
14 weeks, you never had a formal complaint or discipline regarding
03:51PM **15 your work there; correct?**
16 A No.
17 MR. FLANGAS: Okay. Thank you.
18 THE HEARING OFFICER: Anything further, Mr. White?
19 MR. WHITE: Yeah, I have one or two.
03:51PM 20
21 RECROSS-EXAMINATION
22 BY MR. WHITE:
23 Q So, Dr. Sheep, you were doing liposuctions there, and
24 you -- I think you might have said, I don't want to put words in
03:51PM **25 your mouth, but I think you said you saw some sort of certificate**

1 **but you didn't really look into it very clearly.**
2 MR. FLANGAS: I'll just assert --
3 THE WITNESS: Yes, sir. That's correct.
4 MR. FLANGAS: -- it goes beyond recross.
03:51PM 5 THE HEARING OFFICER: He's saying that it --
6 MR. WHITE: I think -- I don't have the statute in front
7 of me, but we don't do that here at the administrative hearings.
8 I think we can go beyond the scope.
9 THE HEARING OFFICER: Actually, I think you're right.
03:52PM 10 MR. WHITE: I don't have very many anyway.
11 BY MR. WHITE:
12 **Q So was that what you said? I missed your answer, I'm**
13 **sorry.**
14 A Can you repeat the last question? I'm sorry.
03:52PM 15 **Q Yeah, that's okay.**
16 **You said you saw a certificate.**
17 A Oh, that is correct. She showed me a framed certificate
18 that, at the time, when I looked at it, looked legitimate, and it
19 assuaged any doubt I had about Vida's, you know, authenticity.
03:52PM 20 But I couldn't tell you what the certificate said. I
21 don't remember.
22 **Q I ask you to turn to Exhibit E in Respondent's binder.**
23 **I think it's the one on the top right there. It's got no seal on**
24 **it, it's just a white binder. Yeah.**
03:53PM 25 A Would it say "trial binder"?

1 Q **Yeah, I think it does. Yeah.**
2 A Okay. Turning to E.
3 Q **E.**
4 A Yes.
03:53PM 5 Q **Does that appear to be the certificate you saw? If you**
6 **can remember.**
7 A Fire marshal. Yes. If I recall, that was what I saw.
8 Q **Okay. So you've seen this before.**
9 **And you were at Vida Spa when you saw this?**
03:53PM 10 **This is the certificate you saw, and you --**
11 A Yes.
12 Q **And you were at Vida Spa when you saw this?**
13 A I was.
14 Q **And Gisselle showed you this?**
03:54PM 15 A She did. She assured me that this meant the spa was in
16 regulation.
17 MR. WHITE: I would move to admit this, actually.
18 MR. FLANGAS: That's fine.
19 MR. WHITE: So I move in their exhibit.
03:54PM 20 MR. FLANGAS: That's fine. Exhibit E.
21 THE HEARING OFFICER: So Respondent's Exhibit E is
22 admitted into evidence.
23 (Exhibit E admitted into evidence.)
24 BY MR. WHITE:
03:54PM 25 Q **Doctor, I need to you keep that page open, if you have**

1 **it still.**

2 A Oh, sorry.

3 **Q That's okay. So we're going back to Exhibit E.**

4 **Do you see, kind of like the last long line of typed**

03:54PM 5 **words there? And it says --**

6 A "An outpatient"? Yes. An outpatient facility for

7 service of local sedation. And that's what I read when I read the

8 certificate.

9 **Q Okay. So you're a doctor. Does -- do you know whether**

03:55PM 10 **propofol is local sedation?**

11 A Oh, no, it's definitely not local sedation.

12 **Q Is it general anesthesia?**

13 A It is.

14 MR. WHITE: Okay. Thank you. I have nothing further.

03:55PM 15

16 FURTHER REDIRECT EXAMINATION

17 BY MR. FLANGAS:

18 **Q Actually, I don't want to correct you, as a doctor, but**

19 **it's not general anesthesia; isn't it conscious or deep sedation,**

03:55PM 20 **if you want to get technical?**

21 A So in my job in emergency medicine, I use propofol

22 pretty much on a daily basis. And, in general, we use it -- the

23 way I use it is for procedural sedation.

24 It can be used for either procedural sedation or general

03:55PM 25 sedation.

1 Q Okay.
2 A That's my understanding.
3 Q Okay. That's fine.
4 Now let's look at this Exhibit E real quick. It's from
03:56PM 5 a fire marshal, right?
6 A Correct.
7 Q It says "outpatient facility for local sedation," right?
8 A It does.
9 Q Gisselle has this hanging on the wall, right?
03:56PM 10 A She does.
11 Q And she shows, "hey, I'm legit," you could do lipo, you
12 could do propofol, you could do all this stuff here; correct?
13 A Correct.
14 Q And, you know, we went through this before, prior to
03:56PM 15 going through this whole experience, you don't even know how to
16 check whether they're a licensed facility or not; correct?
17 A That is correct. I had to be shown by Mr. Fricke how to
18 look into that.
19 Q You need a lawyer to figure it out?
03:56PM 20 A (Nodding head affirmatively.)
21 Q I mean that's the truth of the matter; correct?
22 A That is my opinion, yes. Correct.
23 Q Okay. Thank you.
24 And this just -- and there were other doctors you've
03:56PM 25 seen working at this facility; correct?

1 A That is correct.

2 **Q Other nurses?**

3 A Correct.

4 **Q Physician assistants --**

03:57PM 5 A Correct.

6 **Q -- et cetera. And they all thought it was a legit**

7 **place?**

8 MR. WHITE: Calls for speculation. He doesn't know what

9 they thought.

03:57PM 10 THE HEARING OFFICER: Sustained.

11 BY MR. FLANGAS:

12 **Q Okay. The last question is, even though this says fire**

13 **marshal, local sedation, and all that stuff -- you know what, you**

14 **said it right. You said this was -- you looked at it, it looked**

03:57PM 15 **good to you, and it dissuaded you about having any doubts about**

16 **the authenticity of the medical facility; correct?**

17 A That is correct.

18 MR. FLANGAS: Okay. That's all.

19 THE HEARING OFFICER: Anything further?

03:57PM 20 MR. WHITE: Yes. Thank you.

21

22 FURTHER RECROSS-EXAMINATION

23 BY MR. WHITE:

24 **Q All right. Let me just expand on that.**

03:57PM 25 **So authenticity of a medical facility is a lot different**

1 **than whether you can do local sedation or general anesthesia or**
2 **deep sedation; correct?**
3 A Now, now I know that, yes.
4 **Q You know those are different licenses?**
03:57PM 5 A I do now. At the time I joined, I did not.
6 **Q But you weren't the one doing the anesthesia?**
7 A That is correct.
8 **Q You were there to do -- you were there to do**
9 **liposuctions?**
03:58PM 10 A Yes. Yes, sir, that's correct.
11 **Q So -- and you are not an anesthesiologist, are you?**
12 A I'm not.
13 **Q Okay. So you wouldn't know -- you know now, you're**
14 **saying, but when this was all going on, you didn't know that a**
03:58PM 15 **facility has to be permitted by the Department of Health and Human**
16 **Services to do general anesthesia, do you?**
17 A I did not know that at the time, no.
18 MR. WHITE: Okay. That's all I have.
19
03:58PM 20 FURTHER RECROSS-EXAMINATION
21 BY MR. FLANGAS:
22 **Q One last question. Okay.**
23 **But you knew that to do the liposuction there, that**
24 **someone would have to use propofol on these patients, right?**
03:58PM 25 **That's what they were doing?**

A Yes.

Q Okay. It just never occurred to you. It looked legit, correct?

A It did look legit.

03:58PM **Q And again, you needed Attorney Fricke to explain to you how you would even check this out and figure it out; correct?**

A That is correct.

MR. FLANGAS: Thank you.

MR. WHITE: Can I do one more?

03:59PM THE HEARING OFFICER: Last one.

MR. WHITE: Okay. One more.

FURTHER RECROSS-EXAMINATION

BY MR. WHITE:

03:59PM **Q Dr. Sheep.**

A Yes, sir.

Q While it's probably not a great idea to do liposuction without some general anesthesia, it can be done without general anesthesia; can't it?

03:59PM A It can.

MR. WHITE: Yeah. Thank you.

MR. FLANGAS: One last.

THE HEARING OFFICER: All right. Since he was your witness, this is it.

03:59PM

1 FURTHER REDIRECT EXAMINATION

2 BY MR. FLANGAS:

3 **Q Dr. Sheep --**

4 A Yes, sir.

03:59PM 5 **Q -- you were there in 2019 and 2020, when you thought --**

6 **you had no doubts, you knew they were using propofol there;**

7 **correct?**

8 A They were not using propofol in 2019.

9 **Q Okay. In 2020 they were -- when you were working there**

03:59PM 10 **for five weeks, you knew they were using propofol; correct?**

11 A I did.

12 MR. FLANGAS: Okay. That's all. Thank you.

13 THE HEARING OFFICER: All right. Is Dr. Sheep subject

14 to anybody's recall, or is he good to go?

03:59PM 15 MR. FLANGAS: He's good to go on.

16 MR. WHITE: He's good to go for me too.

17 THE HEARING OFFICER: Dr. Sheep, thank you very much for

18 coming and answering questions today. You are free to go. I

19 appreciate it.

04:00PM 20 THE WITNESS: Thank you, sir.

21 THE HEARING OFFICER: Thank you.

22 MR. WHITE: What do you need, just like five minutes

23 maybe?

24 THE HEARING OFFICER: All right. We'll go off the

04:00PM 25 record then and give our reporter a cool down.

1 (A recess was taken.)

2 THE HEARING OFFICER: My name is Charles Woodman. I'm

3 the hearing officer assigned to this case on behalf of the Med

4 Board.

04:18PM 5 You might be looking at Don White, Mr. White, who is the

6 Board's attorney.

7 Are you on that screen, Don? Can you tell?

8 MR. WHITE: I don't see my picture. I don't have, like,

9 picture-in-picture.

04:18PM 10 THE WITNESS: I see you.

11 Do you have a mustache?

12 MR. WHITE: Yeah, but the beard's probably hard to see

13 because it's all white.

14 THE HEARING OFFICER: So he is the attorney for the

04:18PM 15 medical board.

16 Also present is Mr. Flangas, who is the attorney for

17 Dr. Phillips.

18 Dr. Phillips is also here.

19 And then Mr. Flangas's assistant/associate, Ms. Smith,

04:18PM 20 is present.

21 Meg is here from the Med Board, and our court reporter

22 is here.

23 And, to get you officially started, I'm going to have

24 you raise your right hand. Our court reporter, you won't see her,

04:19PM 25 but she's going to raise her right hand and swear you in,

1 administer the oath of a witness to you.

2

3 TIFFANY McCORMACK, M.D.

4 called as a witness, having been duly sworn,

5 testified by videoconference and telephone as follows:

6

7 THE HEARING OFFICER: Thank you very much,

8 Dr. McCormack.

9 So, to begin with, you are being called on behalf of the

04:19PM 10 medical board, so Mr. White will ask you questions first. And

11 then when he finishes his direct examination, Mr. Flangas will

12 have the opportunity to cross-examine. And that sometimes goes

13 back and forth a few times until they run out of questions.

14 All right?

04:19PM 15 THE WITNESS: Okay.

16 THE HEARING OFFICER: All right. Mr. White, when you

17 are ready.

18 MR. WHITE: I am ready. Thank you.

19 Thank you, Dr. McCormack.

04:19PM 20

21 DIRECT EXAMINATION

22 BY MR. WHITE:

23 Q My name is Don White. I'm Senior Deputy General Counsel

24 for the Board of Medical Examiners. I know we have spoken.

04:20PM **25 I'd ask you to state your name and spell both your first**

1 **and last name for the record, please.**

2 A Tiffany McCormack. T-I-F-F-A-N-Y, M-C-C-O-R-M-A-C-K.

3 **Q Thank you.**

4 **And, Dr. McCormack, what is it that you do?**

04:20PM 5 A I'm a board certified plastic surgeon.

6 **Q Okay. That covers my second question. You're board**

7 **certified.**

8 A Yeah.

9 **Q How long have you been a plastic surgeon?**

04:20PM 10 A I finished residency in 2003.

11 **Q And have you always practiced in Nevada?**

12 A No, I practiced in California from 2003 to 2007.

13 **Q And then was your next stop Nevada?**

14 A Yes.

04:20PM 15 **Q And it was at Reno all the time?**

16 A Correct.

17 **Q And so where is it that you work?**

18 A I'm in private practice, so McCormack plastic surgery.

19 **Q And how long have you had your own practice?**

04:21PM 20 A Since 2008.

21 I guess, technically, 2007.

22 **Q Okay. And do you have other plastic surgeons, MDs,**

23 **working with you, or do you do that as a solo practice?**

24 A Solo.

04:21PM 25 **Q Do you have anybody else working beneath you, like a**

1 **physician assistant or any nurses or anything?**
2 A Yeah, I have several nurses. I have a senior practice
3 nurse. I have, I believe, six RNs, three medical assistants, and
4 office staff.
04:21PM 5 **Q Okay. Now, do you -- what sort of things do you perform**
6 **there at your practice?**
7 A All cosmetic surgery, so abdominoplasty, facelift,
8 eyelid surgery, liposuction --
9 **Q I'm sorry, Dr. McCormack. Would you start over? Just**
04:22PM 10 **go a little bit slower, because the court reporter is trying to**
11 **take everything down.**
12 A Sorry.
13 **Q That's okay. Hey, just, it happens.**
14 A All cosmetic surgery. Just starting at the top: Eyelid
04:22PM 15 surgery, rhinoplasty, facelift, MACS-lift, breast surgery,
16 body-contouring surgery.
17 **Q And you also mentioned liposuction before?**
18 A Liposuction is body contouring, so I do liposuction and
19 Brazilian butt lift and abdominoplasty, all under body contouring.
04:22PM 20 **Q And do you perform those at your -- at your office?**
21 A Yeah, I have -- I have a Quad ASF, it's an AAAASF.
22 That's my accreditation. That's for my surgery center. So, yeah,
23 I perform the vast majority of these at my surgery center. And I
24 work with board-certified anesthesiologists from Renown.
04:23PM 25 **Q That was a question I have.**

1 **So how does that work, do you -- do you send over your**
2 **schedule of surgeries that you need done, that you are going to be**
3 **doing, and then Renown sends you -- actually, let me just ask you.**
4 **It's easier just to ask you, how does that work? How do you end**
04:23PM 5 **up with an anesthesiologist at the right time at your office?**
6 A Yes, you are correct, in that we do send them a schedule
7 the day before. We have a certain number of contracted days that
8 they know that they cover for me, and, of course, they are also
9 required to cover a -- cover emergency surgeries here for, you
04:24PM 10 know, anything that might -- that is unplanned or unscheduled.
11 There are several -- I'm not sure the number. I want to
12 say approximately 60 anesthesiologists in that group. We have not
13 accredited all of them in the facility, just -- I believe it's
14 around 15, I don't know the exact number that we have with
04:24PM 15 privileges coming here. So we tend to work with a more limited
16 number on a regular basis.
17 **Q Okay. Now, I want to ask you something about your**
18 **facility. Is it -- do you have a permit to do -- to use general**
19 **anesthesia, deep sedation, all those, from the Department --**
04:25PM 20 A All that. Yeah, so not only through the State of
21 Nevada, we have to have a state licensure, but also through an
22 accrediting facility, such as Quad ASF.
23 **Q Quad -- oh, I see what you're saying. I's AAAASF, so**
24 **Quad ASF?**
04:25PM 25 A Yeah. And I can tell you exactly what that means, but I

1 always screw it up, so I'm just going to Google it a little bit.
2 Yeah.
3 So everyone just calls it Quad A.
4 MR. FLANGAS: When she says Quad A, that's because
04:25PM 5 there's four As?
6 MR. WHITE: Yeah, four As. It took me a second, too.
7 THE WITNESS: Yeah. Oh, they don't even make it easy to
8 see, but what it stands for here -- global -- sorry, I don't want
9 to hold you guys up.
10 BY MR. WHITE:
11 Q No, in fact, I wanted to ask you how much we have you
12 for. How long do we have you for?
13 A As long as you need. I'm finished for the day.
14 Q Okay. Now, you shouldn't have said that to a couple of
04:26PM **15 lawyers.**
16 A The American Association For the Accreditation of
17 Ambulatory Plastic Surgery Facilities.
18 Q Okay. Thank you.
19 A And I guess that's what it started as in 1980, and then
04:26PM 20 it just morphed to -- they took "out plastic." And now it's just
21 SF, so now it's the American Association For Accreditation of the
22 Ambulatory Surgery Facilities.
23 Q Okay. And you had said that's also required to have
24 anesthesiologists come to your facility?
04:26PM 25 A It's preferred. There are preferred accreditation

1 options out there. I use this one. I think it's one of the more
2 stringent ones, but there are other ones out there.
3 **Q I kind of want to ask you, when you get a new**
4 **anesthesiologist coming to your facility, do you show them your**
04:27PM 5 **accreditation, or do they ask?**
6 **I guess, a better thing, is there a discussion about**
7 **your accreditation of your facility?**
8 A No, not in particular. And I only say that because I've
9 worked with the same group since I started, and so I think you
04:27PM 10 know the powers that be in that group understand that to be true.
11 And whenever I have a new -- and they help me set all
12 that up -- but whenever we have a new one come in, through -- it's
13 through that same group, so it's already established.
14 **Q And did you say they helped you set it up, meaning the**
04:28PM 15 **anesthesiologists in your group, helped you set up your**
16 **accreditation?**
17 A Yeah. They helped when we -- when I first built my
18 facility, we requested that they come and help us with respect to,
19 you know, a list of supplies that they would need, in particular,
04:28PM 20 approving of our ventilator, you know, and just telling us exactly
21 what gases they would need, what they would want on their medical
22 cart, et cetera.
23 **Q Okay. Excuse me one second. I'm just writing.**
24 **Okay. Doctor, I'm actually going to hold something up**
04:29PM 25 **here. I know you don't have a binder in front of you; right?**

1 A Correct.

2 **Q You don't have any exhibits in front of you at the**

3 **moment?**

4 A No.

04:29PM 5 **Q I'm going to hold up a note. I'm going to show**

6 **Mr. Woodman fist. I've already shown Mr. Flangas.**

7 **I'm going to hold that up so she understands --**

8 THE HEARING OFFICER: Sure.

9 MR. WHITE: That's who she reviewed.

04:29PM 10 BY MR. WHITE:

11 **Q So, Doctor, we don't want to stay the patient's name.**

12 **We refer to the patients in letter form, like patient A, patient**

13 **B. There are so many patients in this case that this is Patient**

14 **TTT, okay? I just want -- if you can see that?**

04:29PM 15 A Yes.

16 **Q Can you see what I'm holding up? Is that the person**

17 **that you reviewed?**

18 A Yes.

19 **Q Okay. So you reviewed the medical records of that**

04:29PM 20 **person?**

21 A Yes.

22 **Q Okay. I just want to ask you a few short questions. I**

23 **don't have very many for you, actually.**

24 **If you know --**

04:30PM 25 MR. FLANGAS: You know, real quick, could we -- I need

1 to lodge just a quick objection for the record. And so I think I
2 need to do it outside the presence of the witness, so if we could
3 just mute our side.
4 THE HEARING OFFICER: Sure. Dr. McCormack, I am going
04:30PM 5 to hit the mute button and then I'm going to keep talking to you.
6 And you can tell me whether you can hear me or not, with a thumbs
7 up if you can hear me; or thumbs down, if you can't. Okay?
8 THE WITNESS: Okay.
9 THE HEARING OFFICER: That's right. Go ahead, can you
04:30PM 10 hear me, Dr. McCormack?
11 THE WITNESS: (Indicating).
12 THE HEARING OFFICER: All right. Perfect. Go ahead.
13 MR. FLANGAS: All right. For the record, I'm objecting
14 to her testifying as an expert based on the fact that I did not
04:30PM 15 receive any CV, civil procedure stuff, but --
16 MR. WHITE: Oh, we don't have a CV?
17 MR. FLANGAS: CV or disclosures or depositions or
18 published cases.
19 As you know, for the hearing here, you know, there's
04:31PM 20 reasons why that's put in civil rules, is so the other side can at
21 least look up and do a little due diligence, investigate.
22 And so that's my objection.
23 THE HEARING OFFICER: All right.
24 MR. FLANGAS: So nothing was provided, no report, no CV,
04:31PM 25 nothing about the doctor except her name in the witness part of

1 the list.

2 THE HEARING OFFICER: And for what it's worth, 109 is

3 somebody's CV? Is it not hers?

4 MR. WHITE: No, it's Dr. Janes'.

04:31PM 5 THE HEARING OFFICER: Okay. So response, Mr. White?

6 MR. WHITE: I thought we had it in here, but I'm going

7 to have to go with Mr. Flangas, if I don't have it in here. I

8 thought I had it somewhere.

9 Let's see. Hold on one second.

04:32PM 10 Indulgence, please.

11 THE HEARING OFFICER: Yes.

12 MR. FLANGAS: Take your time.

13 THE HEARING OFFICER: Was there any issue of when she

14 was noticed as an expert? I understand your objection.

04:33PM 15 MR. FLANGAS: No, they put it on the list and that's

16 when I called Don and said -- I didn't ask for the CV -- but I

17 said, "Hey, where is my reports?"

18 THE HEARING OFFICER: Right.

19 MR. FLANGAS: And all that stuff, and --

04:33PM 20 THE HEARING OFFICER: Dr. McCormack, can you bear with

21 us for just a couple of more minutes --

22 THE WITNESS: Yeah.

23 THE HEARING OFFICER: -- while we take care of some

24 legal housekeeping here?

04:33PM 25 THE WITNESS: No problem.

1 THE HEARING OFFICER: Thanks very much.
2 MR. WHITE: I'm looking at -- I mean, I didn't do this
3 on purpose, I can tell you that, but I don't see where a CV is
4 required.
04:34PM 5 And I'm looking at Nevada Administrative Code -- and I
6 can provide one, we can get one -- Nevada Administrative Code
7 630.465, talks about prehearing conference and -- up to 30 days
8 before, so --
9 THE HEARING OFFICER: Does it talk about whether a CV is
04:34PM 10 mandatory?
11 MR. WHITE: I see just witnesses. I don't see an expert
12 witness. I can look somewhere else. And I'm not saying that's
13 the End All, Be All, but I'm going to keep looking.
14 MR. FLANGAS: While Mr. White is looking, you know, my
04:35PM 15 response is that the civil rules of procedure apply, you know.
16 That's -- if you think about it, that's why I got the CV today on
17 the other doctor, you know. And there's rationales. More
18 importantly, there's rationale behind this type of stuff.
19 At least, you know, according to Mr. White, I wasn't
04:35PM 20 allowed to have any reports, that's fine, but -- so at least I
21 could look the doctor up, and that's why you have CVs and
22 depositions and publications.
23 MR. WHITE: Let's see.
24 MR. FLANGAS: And I understand there's, you know,
04:36PM 25 arguments about prejudice, you know, let's see if I got it one

1 week late or two weeks ago or something, at least there's notice.
2 Like this one, at least I got it today. I'm not going
3 to argue prejudice, but at least I can go look at it.
4 MR. WHITE: I'm not finding anything that a CV is
04:37PM 5 required, but I could be wrong. I'm not again saying -- I was
6 just trying to look on my phone here.
7 Looking at 622A. I'm looking at our NAC. Let's see
8 what it says.
9 THE HEARING OFFICER: This is what I'm inclined to do,
04:40PM 10 so we don't waste any more of the doctor's time, and knowing that
11 it's 4:40, I know -- I know that I've heard from experts before
12 without a CV. That doesn't mean that I remember adjudicating
13 whether it was admissible or not, I just think it was a matter of
14 no objection.
04:41PM 15 You can do your best to qualify for -- qualify
16 Dr. McCormack as an expert. Obviously, Mr. Flangas can voir dire.
17 And to the extent that I think she qualifies and hear her
18 testimony, you, counsel can, post-hearing, you can brief whether
19 or not her testimony should be admissible or not based on the law.
04:41PM 20 And if there's a reason to exclude it, I'll exclude it.
21 If it's close enough, we'll let it in.
22 But I think, and because she's here, we should take her
23 testimony and then just decide whether or not it should be
24 admissible based on a lack of appropriate notice or the CV,
04:42PM 25 something like that.

1 MR. WHITE: Okay. And I was going to just maybe suggest
2 too, like if -- we could provide one. We can get one, provide it,
3 and if -- we could always do, you know, a Zoom some other day too.
4 He could cross-examine her based on his -- now his reading of that
04:42PM 5 CV and having time to research it, if he wants to go through it.
6 We can do that in Vegas. So we can do that way too, or
7 something, or have her come here. He can go to the office down
8 there.
9 So I guess it would be a continuance, basically, for the
04:42PM 10 cross-examination. I can get her testimony, and then if it gets
11 disregarded, it can, but I can get her testimony now.
12 If Mr. Flangas wants to -- wants a CV, I will get a CV.
13 And then if he wants, if he sees some things, that's fine, we can
14 always set up a hearing where I think Dr. McCormack could come
04:43PM 15 here, because she lives in Reno; Mr. Flangas could go to the Vegas
16 office, where we have people, and then we can just take care of it
17 that way too. Just a suggestion.
18 THE HEARING OFFICER: Do you want to weigh in?
19 MR. FLANGAS: I'm trying to be conscious of the record
04:43PM 20 as I weigh in.
21 THE HEARING OFFICER: I appreciate that.
22 MR. FLANGAS: My understanding, that's your ruling. And
23 so, of course, I'm going to -- you know, I object to it, but I'm
24 going to go forward with it.
04:43PM 25 And just so everyone knows, it's not -- I'm not

1 necessarily -- I mean, of course, the CV is to assess her
2 qualifications, but I'm sure she's going to be -- I'm presuming
3 she's going to be qualified, but part of it is publications and
4 depos, so I could, you know, do my due diligence for cross.
04:44PM 5 So with that being said, I think, you know, the route to
6 go is --
7 THE HEARING OFFICER: This is what I think is fair --
8 because now we have a CV that was just presented to us by our
9 board staff -- is we'll take the testimony. It would only be fair
04:44PM 10 and appropriate that if there is a basis to exclude it for lack
11 of --
12 MR. FLANGAS: Notice.
13 THE HEARING OFFICER: -- notice on the CV then you gents
14 can brief that after the fact; and, what's more, is if I determine
04:44PM 15 that her testimony is coming in, I think she's subject to like a
16 Zoom type of a recall, so that after he has had an opportunity to
17 look at the CV, which is going to be after this hearing is over,
18 he can bring her back for some further cross-examination.
19 MR. WHITE: Yes, I agree.
04:44PM 20 THE HEARING OFFICER: All right. So that will be my
21 decision.
22 So we'll go ahead and get her testimony. But, again, CV
23 or no CV, which now we have it, you still have to get her
24 qualified as an expert. Right?
04:45PM 25 MR. WHITE: Yeah.

1 THE HEARING OFFICER: And tell me what your schedule is
2 like, because, typically, we only run these until 5:00.
3 (A discussion was held off the record.)
4 THE HEARING OFFICER: Okay. Dr. McCormack, we have
04:45PM 5 finally cleaned some things up, legally, here.
6 Let me just give you a quick idea of what we've talked
7 about because it could possibly impact you.
8 It's possible that we might have to call you back at a
9 future time. We would obviously arrange it with your schedule,
04:46PM 10 but there might be some followup, after today, to your testimony.
11 It might happen, it might not happen, just so you are aware.
12 THE WITNESS: Okay.
13 THE HEARING OFFICER: Thank you. Okay. Back to
14 Mr. White's questions.
04:46PM 15 BY MR. WHITE:
16 Q All right. Thank you, Dr. McCormack. I'm sorry for the
17 delay.
18 So, Dr. McCormack, if you remember, this involved just
19 that single patient that I held up the note. Do you remember that
04:46PM **20 name?**
21 A Yes.
22 Q And again, like I said, we're not going to use the name.
23 No one is. It's Patient TTT, for reference.
24 And do you recall what occurred with that patient, if
04:47PM **25 you can remember, from your review of the chart? Because I think**

1 **it was only pretty much one page here, other than some of the**
2 **pre-operative stuff and consent forms.**
3 A Yes. Generally, yes. If I remember correctly, there
4 were some hospital reports too.
04:47PM 5 **Q Okay. And do you -- do you know what -- do you recall**
6 **what she had done, what Patient TTT had done that day at the -- at**
7 **the facility, Vida Spa?**
8 A If I remember correctly, it was Brazilian butt lift,
9 with liposuction.
04:48PM 10 **Q And do you recall if there was any general anesthesia**
11 **used in this particular -- for this particular patient?**
12 A I don't recall.
13 **Q Okay. What is -- what is propofol used for?**
14 A Anesthesia.
04:48PM 15 **Q If you know, is that what the anesthesiologists use at**
16 **your facility?**
17 A Sometimes, yes.
18 **Q Sometimes.**
19 **What other ones do they use, if you know?**
04:48PM 20 A Propofol, yeah. A combination. We often use it as an
21 inducing agent, where they put the patients to sleep, initially
22 with that, and then gases and other medication.
23 And then sometimes we'll only use propofol throughout
24 the case on, a drip, but it just depends on the --
04:49PM 25 **Q Now, do you recall if there were any -- and I guess,**

1 **lack of a better term -- if there were any complications --**
2 MR. FLANGAS: I think we just lost her.
3 MR. WHITE: She's on right here. I can see her.
4 MS. BYRD: Can you? All right.
04:49PM 5 MR. WHITE: Oh. We just lost her on the screen.
6 THE HEARING OFFICER: Can you hear us? Can you can
7 still hear us, Dr. McCormack?
8 THE WITNESS: Yeah. Can you hear me?
9 THE HEARING OFFICER: We can hear you. We've lost the
04:49PM 10 video on our screen here, but we still got your voice.
11 THE WITNESS: Okay.
12 THE HEARING OFFICER: And I hate to risk pulling her
13 video back up and risk losing the connection, so we're going to
14 just keep going, if that's all right with you.
04:50PM 15 THE WITNESS: That's fine. I can see you.
16 MR. WHITE: You won't be able to see her.
17 MR. FLANGAS: We're getting some feedback though.
18 THE HEARING OFFICER: Yeah, I think you just mute that,
19 and then we'll be okay.
04:50PM 20 MS. BYRD: Yeah, mute the computers.
21 MR. WHITE: Yeah, we can hear you great now.
22 THE HEARING OFFICER: You won't be able to see her. Do
23 you want to see her picture?
24 MR. FLANGAS: No.
04:50PM 25 MR. WHITE: I just want to offer that.

1 BY MR. WHITE:

2 **Q Do you recall -- now, I was about to ask, Dr. McCormack,**

3 **do you recall if there were any complications with this patient?**

4 A Yes.

04:50PM 5 **Q What do you remember?**

6 A If I can correctly, the patient had a syncopal episode

7 in the parking lot before being discharged home, and was

8 hospitalized with multiple cell preparations from the liposuction.

9 MR. FLANGAS: I'm going to lodge -- I need to voir dire

04:51PM 10 real quick on her basis for some of that, because I believe she

11 has some records I don't have.

12 THE HEARING OFFICER: Go ahead.

13 MR. FLANGAS: Just one question.

14

04:51PM 15 VOIR DIRE EXAMINATION

16 BY MR. FLANGAS:

17 **Q Doctor, do you have the hospital records for the**

18 **patient?**

19 A I don't anymore. When I review these cases, they'd give

04:51PM 20 me a disk of all the records, and then they take it back after I

21 review, so I don't have any of that in front of me.

22 **Q Okay. So -- but when you reviewed this to testify, you**

23 **reviewed -- it was the records at Vida Spa and then also the**

24 **hospital records; is that correct?**

04:51PM 25 A I believe so. But I actually didn't review that to

1 testify. I just reviewed them to write a summary opinion, and
2 then, not knowing whether I was testifying or not in the future,
3 that was some time ago, and then --
4 **Q Okay. I understand that, but some of the testimony you**
04:52PM 5 **just said is not in any of the Vida Spa medical records as to what**
6 **they diagnosed her at the hospital, and so that must have came**
7 **from the hospital records; correct?**
8 A That would have been from the hospital, yeah.
9 **Q So -- okay. And that's fine. When were you given these**
04:52PM 10 **medical records, how long ago?**
11 A I'd have to look. I can't remember. I don't know the
12 exact date.
13 **Q Okay. I'm not -- wait. Was it, if you estimate, would**
14 **it be a year ago, six months ago, one month ago?**
04:52PM 15 A I would estimate around six months ago, but I -- I could
16 be wrong.
17 MR. FLANGAS: Okay. That's a fine.
18 So, I need to lodge my objection again, so can I put the
19 doctor on mute?
04:52PM 20 THE HEARING OFFICER: Yeah. Give us another moment,
21 Doctor.
22 THE WITNESS: Okay.
23 MR. FLANGAS: Can you hear us? No? No? Okay.
24 Here's the issue. Matter of fact, I was going through
04:53PM 25 it the night before, and said and where's -- and said we don't

1 have any hospital records.

2 MR. WHITE: I don't either, actually, in my binders. I

3 have the same binders you do.

4 MR. FLANGAS: So what's happening is I got my doctor,

04:53PM 5 and we have -- she's going to testify on records that I've never

6 been given.

7 THE HEARING OFFICER: Right.

8 MR. FLANGAS: And so now we're complicating a lot more

9 stuff. We have the CV, we have the disclosures. And now we have

04:53PM 10 hospital records which really says whatever occurred, that I don't

11 even have, because the only medical record I have of any substance

12 is from Vida Spa and this is one page.

13 THE HEARING OFFICER: Me too. And so did she do her own

14 homework to get those hospital records?

04:53PM 15 MR. FLANGAS: I don't --

16 MR. WHITE: No, she wouldn't have done that, no.

17 What have you got?

18 MR. FLANGAS: I believe what happened is, you know --

19 look, it happens -- is they have the hospital but they never

04:54PM 20 disclosed it.

21 THE HEARING OFFICER: Right.

22 MR. FLANGAS: And so you can't have her testify and give

23 opinions on records that I've never been able to look at.

24 THE HEARING OFFICER: Yeah, it doesn't even sound like

04:54PM 25 Don has seen them.

1 MR. FLANGAS: No, Don doesn't -- yeah.
2 MR. WHITE: I don't have them either, so you know what
3 I'm going to do? I'm going to stick to just this page, and that's
4 all she'll testify to.
04:54PM 5 I mean, that seems fair to me. Right? I won't ask her
6 any questions about any hospital or anything like that.
7 MR. FLANGAS: Just what this page says?
8 MR. WHITE: That's all I got, too. That's all I got.
9 THE HEARING OFFICER: And, I will do my best to defuse
04:54PM 10 the situation before I let you go back to asking questions with
11 her.
12 MR. WHITE: Okay.
13 MR. FLANGAS: And real quick, there's -- she did make --
14 she gave an opinion about the hospital --
15 MR. WHITE: Right.
16 MR. FLANGAS: -- that needs to be stricken from the
17 record.
18 THE HEARING OFFICER: Right. It's going to be stricken.
19 MR. FLANGAS: Okay. Thank you.
04:55PM 20 MR. WHITE: I'm fine with that.
21 THE HEARING OFFICER: Dr. McCormack, we're back. Can
22 you hear us again?
23 THE WITNESS: Yeah, I got you back.
24 THE HEARING OFFICER: Okay. This is Charles Woodman
04:55PM 25 again, the hearing officer.

1 And here's what I just need to clarify.
2 The hospital records that you have reviewed -- and we
3 thank you for doing that, because you're doing your job -- but
4 Dr. Phillips' attorney has not had those.
04:55PM 5 So as you are asked questions by the attorneys today, I
6 need you to do your very best to limit responses to what you got
7 from the Vida Spa records as opposed to what you got from the
8 hospital records. Is that fair?
9 THE WITNESS: Yeah, I can do that.
04:55PM 10 THE HEARING OFFICER: Okay. I appreciate it. The
11 attorneys are obviously -- that's all that they've got, is the
12 Vida Spa records --
13 THE WITNESS: Okay.
14 THE COURT: So that's all they've got a basis to ask
15 questions from.
16 So I need you, to the greatest extent possible, to take
17 what you know from the hospital records, and put that aside, and
18 just talk about what you got from the Vida Spa records.
19 THE WITNESS: Okay.
04:55PM 20 THE HEARING OFFICER: Thank you so much.
21 Here's Mr. White again with more questions.
22
23 DIRECT EXAMINATION, RESUMED,
24 BY MR. WHITE:
04:56PM **25 Q I don't know if this would be helpful. If you can see**

1 **any of this when I hold it up, I can probably point out some**
2 **stuff. Can you see that okay on your screen?**
3 A Yeah, relatively. Yeah.
4 **Q Okay. So maybe I'll be able to do that, and same for**
04:56PM 5 **Mr. Flangas.**
6 **So I'm going to point you toward the top box. I'm going**
7 **to hold it up in just a second. There's a top box which has a**
8 **list of medications and some times next to it.**
9 **And I want you to take a look at the very last**
04:56PM 10 **medication, if you can see it. And I'm going to point to it.**
11 **It's this box, and there's -- can you see that okay? Trying to**
12 **see what I'm seeing.**
13 A Move it a little more. Okay.
14 **Q It's like right there, I think.**
04:57PM 15 A I can't really read it.
16 **Q Okay. Well, I'll represent to you, it's flumazenil.**
17 A Oh, okay.
18 **Q If you know, what is that used for?**
19 A It's a reversal agent for benzodiazepine.
04:57PM 20 **Q A reversal agent for what?**
21 A Benzodiazapine.
22 **Q Why would someone need to use a reversal agent?**
23 A Because -- well, typically, if we're worried that the
24 patient is -- has had too much, or needs to be awakened, who is
04:57PM 25 maybe somnolent, or we're worried about overdose.

1 **Q Repeat your answer at "to being awakened."**
2 A Yeah, typically a reversal agent, in the case of worry
3 that maybe too much of a certain type of medication, like a
4 benzodiazapine in that case, had been given, if someone is having
04:58PM 5 trouble awakening the patient, if you're worried about respiratory
6 depression, if you're just overall concerned that they've had too
7 much, it's to reverse it.
8 **Q Okay. Thank you.**
9 **So you've had your practice since about 2007, 2008?**
04:58PM 10 A Yes.
11 **Q And I just want you to answer, you know, as best you**
12 **can, how many times have you seen flumazenil used in your**
13 **practice?**
14 A We have never used in it my practice, to my knowledge,
04:59PM 15 but -- it is common, but not in my practice.
16 We carry it just in case, but we haven't had an instance
17 to use it.
18 **Q And do you recall if there was any -- when -- and maybe**
19 **I can show it to you, if you can read it.**
04:59PM 20 **Let's see. It's easy for me to put my pen there and**
21 **then I can see where my pen is.**
22 A Yes.
23 **Q Do you see, like, does that indicate that there, the**
24 **patient was bleeding at all, if you can recall?**
04:59PM 25 A No.

1 **Q Okay.**
2 A Is that a drainage amount? Yeah. Sorry, I'm having a
3 hard time reading it.
4 **Q Yeah, I know. I'm sorry.**
05:00PM 5 **I know, I'll find it here.**
6 A Yeah.
7 **Q Okay. Meg is sending you a picture of this paper.**
8 A All right.
9 **Q Okay? So you can take a look and we can go through it.**
05:00PM 10 **Why didn't we think of that? Smart.**
11 MR. FLANGAS: What are we doing?
12 MR. WHITE: Meg just took a picture of this and she's
13 going to text it to her.
14 MR. FLANGAS: That's because she's a Millennial.
05:01PM 15 MS. BYRD: I'll take Xennial and --
16 BY MR. WHITE:
17 **Q Okay. Have you had a chance to -- can you bring it up**
18 **on your phone?**
19 A I don't have it yet.
05:01PM 20 **Q Oh, looks like --**
21 MR. WHITE: Did you send it, Meg?
22 MS. BYRD: (Indicating).
23 THE WITNESS: Okay. Here we go. Okay.
24 BY MR. WHITE:
05:02PM 25 **Q Okay. So if you look at the very -- well, you also see**

1 **there's some -- some signatures near the bottom of the page.**
2 A Yeah.
3 **Q Okay. We have T. Hankins and M. Phillips.**
4 A Got it.
05:02PM 5 **Q And Phillips is the anesthesiologist.**
6 **Just below anesthesiologist, do you see where it says --**
7 **it says something there?**
8 A Can I read it, to clarify?
9 **Q Sure. Yeah, because you know this better than most of**
05:02PM 10 **us here, obviously -- all of us here.**
11 A I'm seeing patient bled, plus, plus, plus. Estimated
12 blood loss equals 500 CCs.
13 Am I reading that correctly?
14 **Q I think so.**
05:02PM 15 A Okay.
16 **Q And at the very bottom it's kind of cut off just above**
17 **where it talks about -- this is effects, right in the middle**
18 **there, does that say "signif bleeding"?**
19 MR. WHITE: I think she is reading to herself.
05:03PM 20 THE HEARING OFFICER: Yeah, I don't think it needs to go
21 on the record.
22 THE WITNESS: Oh, tolerated fairly significant bleeding.
23 Vasodilation. Left lower quadrant function.
24 Okay. Yeah.
05:03PM 25 BY MR. WHITE:

1 **Q Now, there is bleeding, right? Do you see bleeding when**
2 **you have -- when you do fat transfers or liposuction?**
3 A Obviously, I mean, we do see blood, not necessarily
4 significant bleeding, because the incisions are small, and it's
05:04PM 5 not an open procedure.
6 Well, it's open because you are going under the skin,
7 but it's difficult to see if the patient is bleeding internally.
8 **Q Okay.**
9 A I guess I don't typically see that.
05:04PM 10 **Q And what about significant bleeding, would that concern**
11 **you?**
12 A Yeah.
13 **Q What would you do if you were -- you were working on**
14 **this patient?**
05:04PM 15 MR. FLANGAS: I'm going to --
16 MR. WHITE: Hold on. We have an objection.
17 MR. FLANGAS: Yeah, just object. She's also -- she's
18 just testifying from this one page. And so when she starts
19 talking about what she'll do and everything else, she's going
05:05PM 20 to -- I mean, it's not going to be her fault, but she knows all
21 the hospital records and everything else. And she's going to have
22 to start talking, maybe not say the certain words, but she knows
23 some of the other stuff that I don't even know.
24 THE HEARING OFFICER: So, Dr. McCormack, this is the
05:05PM 25 hearing officer again. Any answers that you give, this is where

1 it's tricky, because we're literally asking you to build Chinese
2 walls in your mind around the information that you got from the
3 hospital records.
4 I guess what I need you to do is whenever one of the
05:05PM 5 attorneys asks you a question, when we're talking really
6 substantively here about treatment of Patient TTT, I need you to
7 let us know if you're able to testify just from this one page from
8 the Vida Spa, as opposed to whether you're testifying -- you're
9 relying on other information you picked up from those hospital
05:06PM 10 records.
11 Are you able to answer -- and we should probably have
12 him go back and ask it again, but need to know if you can answer
13 Mr. White's question based solely on what you know from the Vida
14 Spa record.
05:06PM 15 THE WITNESS: Yes.
16 THE HEARING OFFICER: Okay.
17 THE WITNESS: Yes, so I mean, what I know from the Vida
18 Spa record is they reported significant bleeding. There's a
19 report of NEP, a reversal agent. In my practice that would be
05:06PM 20 concerning.
21 And I don't think I would send that patient home, I
22 would send them for an admit to the hospital, based off just this.
23 THE HEARING OFFICER: Okay. Thank you.
24 Mr. White.
05:06PM 25 BY MR. WHITE:

1 **Q Yeah, I want to limit -- I will limit my questions, and**
2 **so, in turn, limit your answers, Doctor, too.**
3 **Up and until the syncopal event in the parking lot, and**
4 **then we know from this record that this person did go to ER,**
05:07PM 5 **because I think someone from Vida Spa, and possibly even**
6 **Dr. Phillips, called ER, or called 911. Okay.**
7 **So you had said -- would you have discharged this**
8 **patient in that state, from what you see on this, in these**
9 **records -- in this record?**
05:07PM 10 A No, I would have been more comfortable sending the
11 patient to the hospital for observation, at least.
12 **Q Okay. And so it wouldn't have been -- it wouldn't have**
13 **been -- you wouldn't have discharged them home; is that correct?**
14 A Correct.
05:07PM 15 **Q And is -- I don't know, so you're going to have to**
16 **answer this for me. Is 500 CCs a significant loss of blood?**
17 A Depending on the procedure, I -- to be honest, I -- not
18 necessarily from the surgery itself.
19 I guess I'm getting the impression that -- well, for
05:08PM 20 liposuction, yeah. Let me back off. For liposuction we don't
21 typically see a 500 CC blood loss. I don't typically see that;
22 maybe with a bigger surgery, but not with that kind of surgery.
23 **Q Okay. Did you see anything in the records,**
24 **pre-operative, that concerned you?**
05:09PM 25 A Not that I recall.

1 **Q Okay.**

2 A I don't remember all of the pre-op records, so -- but I

3 don't remember a thing.

4 **Q And I may have asked you this; I just want to make sure.**

05:10PM 5 **We've had a few delays.**

6 **Do you know whether this facility, Vida Spa, was**

7 **accredited in order to do general anesthesia?**

8 A I did not see evidence of that in the record.

9 And -- sorry, but when you asked if there's anything

05:10PM 10 concerning, I guess I'm thinking of the patient's health history;

11 did you mean that more broadly?

12 **Q Yeah, just -- or I know there was consent, and we can't**

13 **take pictures of all of that stuff and you don't have it in front**

14 **of you, so we're kind of at a detriment here.**

05:11PM 15 A Yeah. I didn't see that an MD had evaluated the patient

16 at all --

17 **Q Okay.**

18 A -- or was at all involved in the case, other than

19 Dr. Phillips the day of the surgery. I guess that would be the

05:11PM 20 only added --

21 **Q And I will represent to you that Dr. Phillips did not do**

22 **the liposuction on this case. She did not.**

23 A Right. Right.

24 **Q For this patient.**

05:11PM 25 **Did you have any concerns about a -- overall --**

1 MR. FLANGAS: Object.
2 BY MR. WHITE:
3 **Q -- about a PA doing this?**
4 A Absolutely, yes.
05:11PM 5 **Q So based on all of your -- your knowledge, experience,**
6 **education, and what we've talked about just from this one sheet of**
7 **paper, really, is it your -- is it your testimony that this was**
8 **malpractice, in that it was the failure of a physician in treating**
9 **a patient, to use the reasonable care, skill or knowledge**
05:12PM 10 **ordinarily used under similar circumstances?**
11 A Yes.
12 **Q And I mean that in the totality of the circumstances**
13 **here. Yes?**
14 A Yes.
05:12PM 15 MR. WHITE: Okay. I have nothing further.
16 I'm going to switch seats so Mr. Flangas can come over
17 -- or you're not going to do it right now?
18 MR. FLANGAS: No, that's okay, unless the doctor wants
19 to see me.
05:12PM 20 MR. WHITE: Or do you want to wait?
21 THE WITNESS: I can hear you.
22 MR. FLANGAS: No, I want to ask questions.
23 MR. WHITE: Okay. I was just wondering because you
24 might delay your cross.
05:12PM 25 MR. FLANGAS: Okay.

1

2 CROSS-EXAMINATION

3 BY MR. FLANGAS:

4 **Q So, Doc, I guess we're pretending that you didn't see**

05:12PM 5 **the hospital records that I never saw. Right? And so -- but in**

6 **order to make a decision, you're testifying right now basically on**

7 **the one sheet of paper from Vida Spa as to whether malpractice**

8 **occurred or not; is that correct? First of all.**

9 A Correct.

05:13PM 10 **Q Okay. Great.**

11 **And wouldn't you agree that a doctor should have all the**

12 **hospital records, patient records, all the way through, to**

13 **determine, to fully understand whether malpractice occurred or**

14 **not? I mean that's what you would prefer, correct?**

05:13PM 15 A Well, that's a tricky question because I have seen them.

16 **Q Right. I agree. I got it. You saw something I didn't**

17 **see.**

18 **So the question is, wouldn't you agree that in order for**

19 **a doctor to really make a decision on whether malpractice or not,**

05:13PM 20 **it might be helpful to see what happened at the hospital**

21 **30 minutes later, after, or one hour after the surgery?**

22 **This is just hypothetical. Wouldn't you want to see**

23 **that?**

24 A Yes, but I think also I'm basing that on the fact that a

05:14PM 25 PA did this surgery, not a medical doctor.

1 **Q Okay. We'll get to that. That's not the question.**
2 **The question is, let's say, you know, we're doing this**
3 **informally, you know, but you go into a trial, you are going to**
4 **go, say, "Hey, this doctor" -- by the way, Maryanne didn't even do**
05:14PM 5 **the lipo -- but you're going say, "this PA, or whoever, committed**
6 **malpractice based on one piece of paper" -- and this is**
7 **hypothetical, not this case, and -- "but I didn't review all the**
8 **medical records at the hospital, what they found, what the blood**
9 **test said and what surgeries occurred after that, and how many**
05:14PM 10 **times they went, or any of that stuff," right?**
11 MR. WHITE: Objection. Compound and argumentative.
12 THE HEARING OFFICER: There was a whole lot in there.
13 You've got to unpack that for her so she can answer.
14 MR. FLANGAS: Okay. I'll -- are we having fun yet?
05:14PM 15 Listen. Look.
16 THE WITNESS: I get what your point is, but --
17 BY MR. FLANGAS:
18 **Q Here's the question, and I'm just asking here, it's fair**
19 **that, on a hypothetical basis, if someone is going to opine as to**
05:15PM 20 **whether malpractice occurred or not, that it would be reasonable**
21 **to have the medical records, to be able to review it; is that**
22 **correct, hypothetically?**
23 A Hypothetically, yes.
24 **Q Okay. And that's what you would want; correct?**
05:15PM 25 A Correct.

1 **Q Okay. Thank you.**
2 **Okay. And then -- so the next area of questioning is**
3 **you said -- Mr. White said, "Well, did you know whether this place**
4 **was accredited or not?" And you said, "There's no evidence of**
05:15PM 5 **accreditation in the record." Okay?**
6 **So I take that to mean that, hey, whatever they gave**
7 **you, you didn't see whether it was accredited. Right?**
8 A Correct.
9 **Q I mean, you almost made it sound like they weren't**
05:16PM 10 **accredited. You said there's no accreditation in the record.**
11 **Does that mean they weren't accredited, because they didn't send**
12 **it to you?**
13 A I can't answer that.
14 **Q Okay. Well, I mean, it seemed like you were trying to**
05:16PM 15 **say that. I don't know. I'm asking you.**
16 **You weren't trying to say that, were you?**
17 A No.
18 MR. WHITE: I'm sorry, could you ask your question
19 again, Mr. Flangas.
05:16PM 20 MR. FLANGAS: Thanks. Yes.
21 I think she answered it. I said she wasn't implying
22 that the place was not accredited.
23 THE WITNESS: Yeah, because I answered the question
24 earlier saying that I didn't see any evidence of accreditation;
05:16PM 25 but typically, that's presented when you take this, but --

1 BY MR. FLANGAS:

2 **Q Well, typically, hospital records are presented to**

3 **everybody too, not -- and I know --**

4 A Yeah.

05:16PM 5 **Q -- that's not --**

6 MR. WHITE: Argumentative.

7 MR. FLANGAS: -- intentional.

8 BY MR. FLANGAS:

9 **Q But -- okay. So I see, so -- see, I just want the**

05:17PM 10 **tribunal to understand the tenor of all of this.**

11 **Typically, they tell you, a doctor who's going to opine**

12 **on malpractice, whether a place is accredited or not, what does**

13 **that have to do with malpractice?**

14 A What does accreditation have to do with malpractice?

05:17PM 15 **Q Yeah, whether a facility has, whatever licenses a**

16 **facility has, what does it have to do with whether a particular**

17 **physician assistant committed malpractice on a specific patient?**

18 A Are you -- well, I guess the question I'm wondering

19 about, are you asking me whether my -- and I guess maybe for the

05:17PM 20 other attorney, are you guys asking me whether I'm implying that I

21 think Dr. Phillips committed malpractice? Or that malpractice was

22 committed in this case, in general, by someone involved?

23 **Q I just was wondering -- I'm asking you whether a**

24 **particular facility, whether -- okay. It doesn't matter. I think**

05:18PM 25 **the -- I got it.**

1 A Okay. I'll --

2 **Q I got -- I got it.**

3 A And I'll answer your question too. I mean --

4 **Q Well, I don't know what --**

05:18PM 5 A -- I don't think it's within the standard of care to

6 perform general anesthesia in a place that's not accredited.

7 **Q Okay. Well, to be accredited, you have to have all the**

8 **equipment there. Correct?**

9 A You have to have a lot of things. You have a safe place

05:18PM 10 ensured, you have to have inspections --

11 **Q Correct. Absolutely. And if they have --**

12 A You have the equipment there.

13 **Q Okay. But that's not -- that doesn't create the**

14 **malpractice of a single patient, which you are here before.**

05:18PM 15 THE HEARING OFFICER: And I'm going to interrupt. This

16 is the hearing officer again.

17 Counsel and our witness are starting to talk over each

18 other, which gives our reporter fits, and makes it tough to keep

19 the record straight. So let's both of you please wait till the

05:18PM 20 other finishes talking before you start in again.

21 MR. FLANGAS: Understood.

22 BY MR. WHITE:

23 **Q I'll tell you what. You don't know either way, it**

24 **wasn't given to you, whether they had accreditation or not; is**

05:19PM 25 **that correct?**

1 A Correct.

2 **Q Okay. So you don't know.**

3 **All right. So let's go to -- you testified that when**

4 **you have blood loss, because of the type of surgery, there are**

05:19PM 5 **small holes, it's not external bleeding; is that correct?**

6 A It can be, through the hole. It's just not typical to

7 see that kind of blood loss.

8 **Q Okay. So it's -- typically, it's not -- you don't see**

9 **the actual blood coming out. And so do you determine blood loss**

05:19PM 10 **based on --**

11 MR. WHITE: I'm going to object to that. He's

12 testifying now. He's saying typically you don't see blood. She

13 just said you could see the blood, so --

14 MR. FLANGAS: I'm sorry, say it again, Mr. White?

05:19PM 15 MR. WHITE: You're testifying.

16 THE HEARING OFFICER: Well, he didn't get his question

17 out.

18 Go ahead with your question.

19 MR. FLANGAS: I thought she said typically you don't

05:19PM 20 actually see the blood coming out of the body, you don't visibly

21 see it. It's internal bleeding.

22 BY MR. FLANGAS:

23 **Q Is that correct?**

24 A In cases that I've done, but she does report a specific

05:20PM 25 amount of blood loss in her record, that one piece of paper.

1 Q Yeah, we're going to get to that.
2 So when -- I want to know, and I think I have
3 everything. When you're looking at whether the -- whether the
4 physician assistant, whether there was malpractice there for the
05:20PM 5 lipo -- because you're a plastic surgeon; correct?
6 Correct?
7 A Correct.
8 Q Okay. You looked at the flumaz- -- can you pronounce
9 that word for me? "Flumazen-" -- it's the medication you give
05:20PM 10 when they're drowsy.
11 A Oh, the reversal agent?
12 Q Yeah, the reversal agent. What is that called?
13 A Flumazenil.
14 Q Flumazenil.
05:20PM 15 THE HEARING OFFICER: And can you spell that for our
16 reporter, please, Doctor.
17 THE WITNESS: F-L-U-M-A-Z-E-I-N-A-L, I believe.
18 THE HEARING OFFICER: Thank you.
19 BY MR. FLANGAS:
05:21PM 20 Q So that's one factor; is that correct?
21 A Correct.
22 Q Okay. And flumazenil, you never use it, even though you
23 have it in your facility, but it's commonly used; is that correct?
24 A Correct.
05:21PM 25 Q Okay. It's just you don't do it?

1 A I haven't needed to in the past.
2 **Q Okay. There are plastic surgeons in, you know, other**
3 **operations, where they do use it commonly; correct?**
4 A I wouldn't say commonly, but it's one of those rare
05:21PM 5 medications, when you need it, you better have it.
6 **Q Okay. Well, you said the words, "never used it but it**
7 **is common" --**
8 A I guess --
9 **Q -- "to use."**
05:21PM 10 A -- it's common to have it; not to use it.
11 **Q Okay. Got it.**
12 **So you cited to that. That's one.**
13 **You cited to "patient bled." Correct? On this one-page**
14 **report. Correct?**
05:21PM 15 A Correct.
16 **Q I'm sorry, I keep on saying "correct" because we have**
17 **the court reporter here.**
18 A Oh, okay. Okay.
19 **Q Okay. And the third thing you cited is at the bottom it**
05:22PM 20 **said "Tolerated fairly significant bleeding, vasodilation LLQ F**
21 **suction."**
22 A Yes, that's what I read here.
23 **Q Okay. Those are the three points that you cited to, to**
24 **talk about whether the physician assistant committed malpractice;**
05:22PM 25 **is that correct?**

1 A Yeah, that's --

2 **Q Okay.**

3 A Well, I think I was asked what I would do in the

4 instance that I saw that in a patient, and I stated I would send

05:22PM 5 them to the hospital.

6 **Q Okay. I'm just trying to understand. Those -- we have**

7 **those three factors.**

8 **Are there any other factors on this page that you would**

9 **cite to in your rendering or supporting your opinion?**

05:23PM 10 A Yeah, that a PA is performing the surgery --

11 **Q Okay.**

12 A -- without a supervising physician --

13 **Q Without a --**

14 A -- on site.

05:23PM 15 **Q -- the medical director or whoever is in charge of that**

16 **PA; correct?**

17 A Correct.

18 **Q Okay. And so -- and so you state that a PA should not**

19 **be doing the liposuction; is that correct?**

05:23PM 20 A Correct.

21 **Q Without the physician actually in the room?**

22 A Yes.

23 **Q And we're talking about --**

24 A Correct.

05:23PM 25 **Q And the physician we're talking about is the physician**

1 who's overseeing the liposuction, the lipo surgery?
2 A Correct.
3 Q Okay. Now are there any other factors besides that?
4 A Not to my knowledge.
05:23PM 5 Q Okay. Great.
6 So I want you to read, and maybe you have it on -- I'll
7 read it, and you've got it on your phone.
8 When it says, "Anesthesia sent at to ER," you have that.
9 And then it says "tolerated fairly significant bleeding.
05:24PM 10 Vasodilation LLQ F suction." That's something that -- do you even
11 know whether that's something that was written down after the
12 person wrote it talked to the hospital hours later?
13 A I don't know when anything was written on here, no.
14 Q Right. I mean, this is obviously after the fact, after
05:24PM 15 the patient was sent to ER; correct? Because you have "Anesthesia
16 sent patient to ER." Correct?
17 A I --
18 MR. WHITE: Objection. Calls for speculation.
19 THE WITNESS: "Anesthesia sent patient to ER." I don't
05:25PM 20 know when that was written. I wouldn't have known that.
21 BY MR. FLANGAS:
22 Q Okay. Well, I'm going through timing here.
23 The person didn't say there was fairly significant
24 bleeding before they wheeled her out, and --
05:25PM 25 MR. WHITE: Objection. It again calls for speculation.

1 Maybe they did.

2 MR. FLANGAS: Let me finish my question.

3 THE HEARING OFFICER: Yeah, finish the question. And

4 then --

5 MR. FLANGAS: Okay. It says --

6 THE COURT: And then, Doctor, wait to answer until

7 Mr. White has an opportunity to object.

8 MR. FLANGAS: Okay.

9 BY MR. FLANGAS:

05:25PM 10 **Q Part of that writing says "sent patient to ER," correct?**

11 A Correct.

12 **Q Okay. So when that writing occurred, it occurred after**

13 **the patient was sent to ER; correct?**

14 A I don't know.

05:25PM 15 **Q Well, they would know that the patient was sent to ER**

16 **before they wrote it, correct?**

17 A Not by me.

18 **Q The words "ER" are there. Is that correct?**

19 A Yeah, but I don't know who wrote what when. I only know

05:25PM 20 that --

21 **Q I -- okay. I understand what you're saying. I'm saying**

22 **there's two -- there's a full sentence here and it mentions ER.**

23 **Do you see that?**

24 A Yeah.

05:26PM 25 **Q Okay.**

1 A Yeah.

2 **Q And so you're writing a sentence and you put "ER" down,**
3 **doesn't it sound -- and maybe it's not reasonable to you. Does it**
4 **stand to reason that it was written down after the patient was**
05:26PM 5 **sent to ER?**

6 A I mean, that sounds reasonable, but I guess I can't
7 testify as to exactly when anything was written on here because I
8 wasn't there.

9 **Q Okay. So you can't -- so with that being said, you**
05:26PM 10 **can't use that as a factor as to whether you would've sent the**
11 **patient to ER before -- let me put at this way.**
12 **They might not have known that there was significant**
13 **bleeding until the hospital told them, after they were sent back**
14 **from ER; is that correct?**
05:26PM 15 MR. WHITE: Objection. Calls for speculation.
16 THE WITNESS: I don't know.
17 BY MR. FLANGAS:
18 **Q What do you mean, you don't know? That's a possibility,**
19 **isn't it?**
05:26PM 20 MR. WHITE: It calls for speculation. Now, you're being
21 argumentative.
22 THE WITNESS: It's a possibility, but I don't know for a
23 fact.
24 THE HEARING OFFICER: So it's asked, and I think the
05:27PM 25 answer is consistent with your objection, so --

1 MR. FLANGAS: Okay. So --
2 THE WITNESS: It says --
3 MR. FLANGAS: -- I understand --
4 THE WITNESS: -- I mean before that --
05:27PM 5 THE REPORTER: I couldn't hear what she said just now.
6 THE HEARING OFFICER: Okay. So we'll strike what she
7 said because it may not have been responsive to any question.
8 But, again, Counsel, let her finish before you start
9 with another question.
05:27PM 10 MR. FLANGAS: I'm sorry.
11 Did I say that on the record?
12 THE HEARING OFFICER: You did.
13 BY MR. FLANGAS:
14 Q All right. Okay.
05:27PM **15 The answer is you don't know if it was written down**
16 after they talked to the hospital. You just don't know. Correct?
17 A Correct.
18 Q Okay. But you'll still use that to find that there was
19 malpractice on behalf of the PA, even if, though, you don't know
05:28PM **20 that the PA even knew that prior to the patient going to ER?**
21 MR. WHITE: Objection. Compound.
22 MR. FLANGAS: Isn't that correct?
23 THE HEARING OFFICER: Can you -- can you understand the
24 question, or --
05:28PM 25 THE WITNESS: Yeah.

1 THE HEARING OFFICER: Go ahead.

2 THE WITNESS: Yeah. That's -- I mean, that's correct,

3 but also I think that a PA performing surgery without a

4 supervising physician is malpractice also.

05:28PM 5 BY MR. FLANGAS:

6 Q I understand. I get it. We had the doctor testifying

7 today. So I get that.

8 Okay. There's one thing -- so on the sheet, what we

9 have, we have the flumazenine -- flumazenil. And then we have

05:28PM 10 patient bled, 500 CCs.

11 And then I want to point out one more thing.

12 Do you see at the very end there, you have the vitals

13 for 1350?

14 A Yes.

05:29PM 15 Q Okay. And the blood pressure is 113 over, what looks

16 like 67. That's normal, right?

17 A That's normal.

18 Q Okay. Heart rate is 82. That's normal, right?

19 A Normal.

05:29PM 20 Q And RR. What's that stand for?

21 A Respiratory rate.

22 Q Okay. That's normal, right?

23 A Yeah. Yes.

24 Q So the last -- what do you call this, the last note or

05:29PM 25 monitor, what's the terminology?

1 A The last vital sign reading?

2 **Q Yeah. She was stable; is that correct?**

3 A From a -- yeah, from a vital signs standpoint, yes.

4 MR. FLANGAS: Okay. Thank you.

05:29PM 5 That's all. Thank you, Doctor.

6 THE HEARING OFFICER: All right. Mr. White?

7 MR. WHITE: I have just a couple, yeah.

8 THE HEARING OFFICER: Redirect.

9 Bear with us here, Dr. McCormack.

05:30PM 10 THE WITNESS: No problem.

11

12 REDIRECT EXAMINATION

13 BY MR. WHITE:

14 **Q So, Doctor, you were just asked the question, if those**

05:30PM 15 **vitals indicate a stable patient at that time, and you said yes.**

16 A Yes, from a vital signs prospective, yes.

17 **Q Now, have you ever seen a patient who was stable,**

18 **destabilize?**

19 A Yes.

05:31PM 20 **Q And would a syncopal event indicate that, that they've**

21 **destabilized?**

22 A Yes.

23 **Q We've established now that flumazenil was used to --**

24 **because there was concern about this patient waking up.**

05:31PM 25 MR. FLANGAS: I'll object. That's not the testimony.

1 I mean, in those words, that's not the testimony.
2 BY MR. WHITE:
3 **Q Okay. I said there was concern, I don't think we**
4 **were --**
05:31PM 5 THE HEARING OFFICER: You can backtrack as to why the
6 reversing agent was used --
7 MR. WHITE: Okay.
8 THE HEARING OFFICER: -- and get that clarified.
9 MR. WHITE: Let's get it clarified. Okay.
05:31PM 10 BY MR. WHITE:
11 **Q Why was the reversing agent, flumazenil, used?**
12 MR. FLANGAS: Objection. Calls for speculation.
13 MR. WHITE: She's an expert. She knows what --
14 BY MR. WHITE:
05:31PM 15 **Q Why would you use flumazenil?**
16 A To reverse an overdose of benzodiazapine.
17 **Q Okay. And why would you need to reverse that?**
18 A If the patient is not waking up or is unstable or is
19 suffering from, maybe, respiratory depression or somnolence.
05:32PM 20 **Q If you had a patient where you needed to use**
21 **flumazenil -- you never have, you've already established that --**
22 **but if you did, would that -- would that cause you to monitor that**
23 **patient a little longer and give them more attention, before**
24 **discharging?**
05:32PM 25 A Yes.

1 **Q We've talked about accreditation of a facility to use**
2 **general anesthesia. Do you know why -- if you don't, that's okay.**
3 **Do you have any idea why they would require accreditation?**
4 **Because you have a facility like this.**
05:33PM 5 A Well, accreditation, it ensures that a certain standard
6 of care is met. There's peer review. There are regular
7 inspections.
8 And also, an accrediting body, I believe, is required by
9 the State of Nevada for general anesthetic to be performed in an
05:33PM 10 outpatient facility.
11 **Q Okay. And I just want to ask this like a hypothetical.**
12 **Is there safety issues, too, as far as having somebody under**
13 **anesthesia, as --**
14 A Yes.
05:34PM 15 MR. FLANGAS: Oh --
16 MR. WHITE: And I'll -- go ahead. Go ahead. What do
17 you want to object to? Go ahead.
18 MR. FLANGAS: I'm going to object, it calls for
19 speculation. There's no foundation.
05:34PM 20 She hasn't testified what, in order to be accredited as
21 a medical facility, outpatient facility, there's a statute. In
22 the statute -- and there are some NACs. There's a statute that
23 states what that facility needs, okay?
24 MR. WHITE: Uh-huh.
05:34PM 25 MR. FLANGAS: And she hasn't testified that she has the

1 knowledge of what those items are that would then lead to, you
2 know --
3 MR. WHITE: Okay.
4 MR. FLANGAS: -- and she did testify correctly,
05:34PM 5 accreditation shows certain standards are met. I get that part.
6 But whether this facility had those things or not, you
7 know, I think it's just going beyond her scope there.
8 MR. WHITE: Okay.
9 BY MR. WHITE:
05:34PM **10 Q Doctor, do you know what is required to have your**
11 facility, in the State of Nevada, I guess, since we're talking
12 about that, what's required statutorily to be accredited?
13 A I guess I can't speak to exact statutes.
14 Q Okay. Have you ever talked with somebody from the --
05:35PM **15 from the Bureau of Health and Human Services about your license?**
16 A Yeah. So, I mean, we have a state license through the
17 State of Nevada. And when we first received our license, it was
18 temporary and contingent upon us furthering our accreditation
19 through a national accreditation body.
05:35PM 20 So I was told at that time that we had a certain -- I
21 believe, it was six months but I'm not exactly sure, it's been a
22 few years -- but we were told that we were granted privileges to
23 begin surgeries under general anesthesia sedation, and we had a
24 certain amount of time before that would be taken away if we
05:36PM 25 didn't have accreditation with one of the larger licensing bodies.

1 **Q I'm just going to ask you -- I don't even -- this isn't**
2 **concerning any accreditation or, you know, facility accreditation.**
3 **How many people at one time can be under anesthesia at**
4 **your office?**
05:36PM 5 A One.
6 **Q Just one. Okay.**
7 **Do you have in place something, a safety precaution --**
8 **for instance, if a fire started, how would you get that person**
9 **out?**
05:36PM 10 A Yeah, we have a whole protocol for that.
11 **Q At your practice, when you do a liposuction with fat**
12 **transfer, kind of like what was done here --**
13 A Uh-huh.
14 **Q -- how many people would commonly be in the surgical**
05:37PM 15 **suite during that time?**
16 MR. FLANGAS: Objection. Relevancy.
17 THE HEARING OFFICER: How is it relevant?
18 MR. WHITE: We know two people were in this one, so I
19 mean, I want to know, I'd like to know, and just for exploring,
05:37PM 20 how many people she does.
21 I mean, we're finding out if there's malpractice here.
22 We need to know that -- if two people isn't enough, I don't know.
23 I just want to hear what she has to say.
24 THE HEARING OFFICER: Overruled. You can ask the
05:37PM 25 question and the doctor can answer.

1 THE WITNESS: Okay. Four people in the surgical suite.
2 That would include a circulating nurse, a surgical tech, an
3 anesthesiologist, and then myself as the surgeon.
4 And we have an additional recovery room and pre-op nurse
05:38PM 5 right outside, outside the door.
6 BY MR. WHITE:
7 Q I think Mr. Flangas might have asked you this, but --
8 I'm not sure -- but whose responsibility is it, if you know, to
9 ensure that they're practicing in a licensed facility?
05:38PM **10 And I might have asked you this too, do you tell the**
11 anesthesiologist that you're accredited? Or I think you said that
12 they already -- they helped you set it up. Is that correct?
13 A Yes. Well, we -- so our group that we use is fairly
14 large and so they have a president of the group who I deal with
05:39PM 15 directly. And he is, at the time, was the one who, before
16 agreeing to be contracted here, asked that question.
17 Q Okay.
18 A And wanted to see proof of that before we were to grant
19 privileges to a number of people in the group.
05:39PM 20 MR. WHITE: Thank you. That's -- I'll pass the witness,
21 Counsel. That's all I have.
22 THE HEARING OFFICER: All right. Doctor, it looks like
23 the attorneys have run out of questions for you for today.
24 I know that the Medical Board's staff will be in touch
05:39PM 25 with you if we're going to need to bring you back for more

1 questions in the future -- again, that's a possibility but it's
2 not a guarantee -- but they'll coordinate that with you if we need
3 to do it. All right?
4 THE WITNESS: Okay.
05:40PM 5 THE HEARING OFFICER: Thank you very, very much for your
6 time and your assistance here today. It's much appreciated.
7 THE WITNESS: You're welcome.
8 THE HEARING OFFICER: Take care.
9 THE WITNESS: Okay. Bye.
05:40PM 10 THE HEARING OFFICER: Bye-bye.
11 Okay. So, do we need to put anything else on the
12 record? Or can we go off the record and let our reporter start
13 packing up while we do a little bit of housekeeping.
14 MR. FLANGAS: Yeah, I think we can go off the record.
05:40PM 15 (The proceedings concluded at 5:40 p.m.)
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24
25

1 STATE OF NEVADA)
) ss.
2 WASHOE COUNTY)

3

4 I, CONSTANCE S. EISENBERG, a Certified Court Reporter,
5 do hereby certify:
6 That on Monday, December 19, 2022, at the hour of 9:34
7 a.m. of said day, at Offices of the Nevada State Board of Medical
8 Examiners, 9600 Gateway Drive, Reno, Nevada, I was present and
9 took verbatim stenotype notes of the proceedings held before
10 Charles Woodman, Hearing Officer, in the within-entitled matter,
11 and thereafter transcribed the same into typewriting as herein
12 appears;
13 That I am not a relative nor an employee of any of the
14 parties, nor am I financially or otherwise interested in this
15 action;
16 That the foregoing transcript, consisting of pages 1
17 through 213, inclusive, is a full, true and correct transcription
18 of my stenotype notes of said proceedings.
19 DATED: At Reno, Nevada, this 7th day of January, 2023.
20
21
22 Constance S. Eisenberg
23 CONSTANCE S. EISENBERG
CCR #142, RMR, CCR
24
25

BEFORE THE BOARD OF MEDICAL EXAMINERS

OF THE STATE OF NEVADA

In the Matter of Charges and Complaint Against:	) Case No. 21-10032-1
MARYANNE DEFOREST PHILLIPS, M.D.,	)
Respondent.	)

TRANSCRIPT OF HEARING PROCEEDINGS

Volume II

Held at the Nevada State Board of Medical Examiners

9600 Gateway Drive

Reno, Nevada

Tuesday, December 20, 2022

REPORTED BY:
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1 RENO, NEVADA; TUESDAY, DECEMBER 20, 2022; 9:18 A.M.
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4 HEARING OFFICER WOODMAN: Ms. LaRue, thanks
5 for coming back today. You recall that Mr. Flangas was
6 in the middle of asking you questions when we had to
7 break yesterday, and I'll just remind you you're still
8 under the same oath.
9 THE WITNESS: Okay.
10 HEARING OFFICER WOODMAN: All right. Mr.
11 Flangas, when you're ready.
12
13 CONTINUED CROSS-EXAMINATION
14 BY MR. FLANGAS:
15 **Q Ms. LaRue, do you remember where we were?**
16 A We were talking about medical records.
17 **Q Yeah, I know. Okay.**
18 A But not specifically.
19 **Q Okay. Let's see. I think we already talked**
20 **about whose -- Let's see. Let me just go through real**
21 **quick. We also talked about who would be normally**
22 **responsible. It's either the facility or the medical**
23 **director, right?**
24 A Uh-huh. Yes. It could be the doctor. It
25 really depends on the situation with medical records.

1 **Q Right. Usually, I think you even said**
2 **usually doctors are usually not responsive, but it could**
3 **be --**
4 A It really depends on the situation. Some of
5 them are independent and they want to be in control and
6 have custodianship and some don't, so it really doesn't
7 -- there's no way to say specifically.
8 **Q And we talked about a lot of times, that's**
9 **governed by contract between the medical director and the**
10 **facility?**
11 A Correct.
12 **Q Okay. And we talked about you weren't there**
13 **during the investigation or you weren't on the case**
14 **during the investigation, but the standard letter order**
15 **saying produce the documents went out to Vida Spa; is**
16 **that correct?**
17 A Yes.
18 **Q And Vida Spa sent back all of the medical**
19 **records including the sedation log; correct?**
20 A Correct. From what was in the volumes, yes.
21 **Q Right. And was there -- the volumes of cases**
22 **we have, were there other patients, records of patients**
23 **that were provided that aren't part of the binders here?**
24 A I couldn't answer that question. I only know
25 what the evidence is that's being presented to the

1 hearing because the case was not mine.

2 **Q Okay. So there could have been other -- You**

3 **came on after the exhibit?**

4 A Correct.

5 **Q The patient exhibit documents were already**

6 **put together?**

7 A Yes.

8 **Q Okay. So you don't know if there was**

9 **anything else?**

10 A No.

11 **Q Okay. And we talked about -- Let's see.**

12 **There was -- and you might not know. You directed us to**

13 **two letters that went out, I mean letters went out to**

14 **Vida Spa for requests; correct?**

15 A Uh-huh.

16 **Q And letters went to Dr. Maryanne to**

17 **respond --**

18 A Correct.

19 **Q -- correct? Okay. Do you know which**

20 **exhibits that was?**

21 A I think it's four. The original allegation

22 letter, I do believe is, is Exhibit 4.

23 **Q Okay. Yeah, the original one is Exhibit 4.**

24 A Correct.

25 HEARING OFFICER WOODMAN: And five is the

1 second request.

2 MR. FLANGAS: And five is -- okay.

3 THE WITNESS: And the second request goes out

4 if the first request isn't responded to at the requested

5 time period, we give a specific number of days that we

6 ask for response. This one is 30 calendar days.

7 **Q (BY MR. FLANGAS:) Right. And, you know, you**

8 **aren't aware of whether she didn't get the first request**

9 **until later on? You don't have any knowledge?**

10 A The only information I have is what is

11 presented here that the case -- the initial allegation

12 letter was sent. Thirty calendar days went by and no

13 response was received, so a second request was sent with

14 a copy of the original, and then a response was submitted

15 by an attorney. It's standard procedure for every

16 investigation. That's how all of the investigations get

17 handled.

18 **Q Okay. I got it. And no phone call --**

19 **eventually the response was given. We talked about that.**

20 A Correct. We received a response.

21 **Q But you don't know if she was out of state at**

22 **the time when the letters went out; correct?**

23 A No, I don't.

24 **Q And no phone call, no one called her up to**

25 **say: Hey, Dr. Phillips, check your mail or -- that's not**

1 **standard, right?**

2 A It's not standard for us to make those phone

3 calls until after a second request has gone out and

4 there's been no response and we're getting ready to

5 submit a final request which goes certified, then there

6 are other avenues that we will take to try to get a

7 response, phone calls, emails.

8 **Q Emails?**

9 A Those kind of things, yeah. But those don't

10 happen until after our process has exhausted all other

11 options.

12 **Q Right. Okay. So basically, you use the**

13 **formal route, say here's the --**

14 A Correct.

15 **Q -- address on file you send it to. And after**

16 **the second request, then you do the emails and phone**

17 **calls?**

18 A Correct. Then we start searching a little

19 bit deeper. Well, we give you an opportunity. So if you

20 look at the 30 days for the initial and then 15 days for,

21 I mean, that's -- we're bordering on 45 days now.

22 There's been no response. Now the Board is concerned

23 about where the doctor is located. Is the address

24 correct? That kind of thing because they require --

25 **Q And so that's why you email and make a phone**

1 **call?**

2 A Correct.

3 **Q And you don't know if the email or phone call**

4 **was sent out?**

5 A I'd have to check the electronic notes in the

6 case file. That's not in front of me, so I couldn't tell

7 you.

8 **Q So a lot of times when two notices go out and**

9 **there's no response, you call or email and then they say**

10 **oh, I didn't know or --**

11 A In general, yes. We'll find other avenues to

12 locate the physician. It's very possible that the

13 current mailing address on file isn't correct. It was

14 removed and nothing has been changed.

15 **Q Okay. No one gets in trouble for that?**

16 A No. Well, no one gets in trouble for what?

17 Be specific.

18 **Q It's understandable that sometimes addresses**

19 **change, people don't realize that they're being summoned,**

20 **stuff like that?**

21 A That is correct, but there is a statute that

22 requires a doctor to change their address within 30 or 45

23 days of the move to notify the Board.

24 **Q Right. I got it.**

25 A So you could get in trouble for that.

1 **Q You could.**
2 A Yes. It's potential, but we try to alleviate
3 that by locating you in other avenues.
4 **Q And that's because we understand things**
5 **change sometimes.**
6 A Sure. Absolutely.
7 **Q Okay. Got it. I think we covered that if**
8 **controlled substances are prescribed for sedation, then**
9 **the facility needs to be a medical facility?**
10 A Correct. Yes, from what I understand, yeah,
11 they have to be licensed with the Department of Health
12 and Human Services.
13 **Q So Vida Spa had to be or was -- should have**
14 **been a licensed facility with the health department,**
15 **right?**
16 A Department of Health and Human Services,
17 yeah. The Bureau of Healthcare Quality and Compliance, I
18 believe, is where they get that license.
19 **Q Okay. And they had -- it should have been**
20 **licensed because sedation was being performed there;**
21 **correct?**
22 A From what I understand, yes, in order to be
23 considered in the list of exempt.
24 **Q And controlled substances were being given**
25 **there --**

1 A Sure.

2 **Q -- right? You know they're both stand-alone**

3 **reasons.**

4 A Yes.

5 **Q Lipo itself is, you know, lipo could be done**

6 **without sedation. Are you aware of that or no?**

7 A Yes, I'm aware of that. Why you would want

8 to do that, I don't know, but yeah, I'm aware that you

9 can.

10 **Q So the question -- Is lipo by itself does not**

11 **require a medical facility; is that correct?**

12 MR. WHITE: Objection --

13 THE WITNESS: I don't know whether it --

14 MR. WHITE: -- that's a vague question.

15 THE WITNESS: I don't know the answer to that

16 actually. I don't know really because I don't work for

17 the --

18 MR. WHITE: Hold on. It's vague.

19 MR. FLANGAS: Okay.

20 HEARING OFFICER WOODMAN: I'll let her

21 answer, especially in part because the answer she's

22 giving, I think, is a fair and reasonable response to the

23 question, so --

24 MR. WHITE: I guess my -- We need to define

25 what -- maybe we have a statute for what a medical

1 facility is, that might help, and maybe why he's asking
2 the questions. It just seems vague to me.
3 MR. FLANGAS: Well, let me rephrase the
4 question.
5 HEARING OFFICER WOODMAN: Go ahead. And of
6 course, Ms. LaRue, and I know you've done this plenty of
7 times in the past, but if you know.
8 **Q (BY MR. FLANGAS:) Lipo without sedation can**
9 **be performed at a location that doesn't have a medical**
10 **facility license; is that correct?**
11 MR. WHITE: Objection. First of all, this
12 isn't even a question for this witness. You can
13 cross-examine Dr. Janes when he comes in, too. He's an
14 anesthesiologist, so you can cross him on that if you'd
15 like.
16 HEARING OFFICER WOODMAN: Well, is your
17 objection to foundation?
18 MR. WHITE: Well, yeah, it's foundation and
19 yeah.
20 HEARING OFFICER WOODMAN: You can lay some
21 foundation.
22 **Q (BY MR. FLANGAS:) Okay. Well, if you don't**
23 **know these things, it's okay, all right. The question is**
24 **first of all, you're an investigator on all of this**
25 **stuff, right?**

1 A I'm investigator for medical doctors, not
2 facilities.
3 **Q Oh, not for facilities.**
4 A No. We don't license facilities.
5 **Q How do you know that it has to be a licensed**
6 **facility if you have sedation?**
7 A Because we have reporting statutes for
8 sedation: Conscious sedation, deep sedation, and general
9 anesthesia. There are 16 facilities that are listed
10 under NRS 449, I think it's 051 that are required to have
11 a license in order to be exempt from not reporting those
12 things. So if you're in an office and you're doing
13 sedation and you're not one of those 16 facilities listed
14 in that statute, you have to report to the Board that
15 you're doing it. That's how I'm aware. I collect those
16 forms.
17 **Q Okay. Well, that's how you're aware that**
18 **sedation you need a --**
19 A Aware of the difference between facilities
20 that can do it with sedation and can't do it without or
21 have to do it without.
22 **Q So are you unaware of whether just doing the**
23 **lipo without sedation, you don't need a licensed**
24 **facility?**
25 A I wouldn't be able to give you specifics on

1 procedures that are done. I can tell you what facilities
2 are required to have a license to perform with sedation
3 and what facilities have to report that are not on that
4 list that have to report the use of sedation. That's the
5 difference. Procedures, we don't license procedures or
6 facilities to do those things. It's not part of our job.
7 **Q The purpose of you monitoring is you're**
8 **monitoring licensed facilities, right?**
9 A We're monitoring people who are using
10 sedation in an office setting.
11 **Q Okay. No one ever reports to you people who**
12 **are doing -- performing lipo without sedation?**
13 MR. WHITE: Objection, calls for speculation.
14 HEARING OFFICER WOODMAN: Sorry. Repeat the
15 question.
16 **Q (BY MR. FLANGAS:) Well, she knows. No one**
17 **is reporting to you. It's not -- her personal knowledge,**
18 **no one is reporting to you or your agency of doctors or,**
19 **you know, nurses doing lipo without sedation.**
20 A I can tell you that NRS 633.0665 requires any
21 license holder to report if they're using sedation in an
22 office setting. Any of the 16 facilities that are in
23 449, I think it's 051 or 551, they don't have to report
24 the sedation. If you have to report sedation on your
25 annual renewal or biennial renewal, you have to tell us

1 the number of procedures that you're doing and what type
2 of procedure you're doing.
3 **Q I understand that. And --**
4 A That's the only --
5 **Q -- that's not my question.**
6 THE COURT REPORTER: One at a time, please.
7 **Q (BY MR. FLANGAS:) My question is: I**
8 **understand that you govern people's reported of sedation**
9 **to you, right?**
10 A Yes, the Board requires that.
11 **Q What I'm asking: Do you also have any**
12 **medical companies or doctors reporting only lipo to you**
13 **without sedation?**
14 A No, that wouldn't be a requirement.
15 **Q Okay. That was the question.**
16 MR. WHITE: Again, it's still vague.
17 THE WITNESS: I'm confused.
18 MR. WHITE: She does not -- this Board does
19 not deal with facilities, so we're talking about
20 licensees. We only monitor licensees. So again, the
21 question is vague and it calls for speculation. She
22 can't tell what another agency does and what reports they
23 get.
24 MR. FLANGAS: It's not vague. It was just a
25 question that she -- that's not in her purview that no

1 one reports to her facilities are doing lipo without
2 sedation.
3 MR. WHITE: Well, you just admitted it's not
4 in her of purview, so it calls for speculation.
5 MR. FLANGAS: I didn't ask her to speculate
6 if they report to other places. I asked her to say do
7 they send it to you. No one sends me that stuff. Okay.
8 I got it. That's all it is.
9 HEARING OFFICER WOODMAN: And I think that
10 Ms. LaRue has answered the questions accurately and has
11 let us know what she covers, what she doesn't cover and
12 what she doesn't know, so I'm satisfied.
13 MR. FLANGAS: Okay.
14 HEARING OFFICER WOODMAN: And obviously, when
15 we get back to you, you can clarify anything you want.
16 **Q (BY MR. FLANGAS:) Okay. I think I'm almost**
17 **done. Let me see. One last topic. Exhibit 11 is like a**
18 **sedation log; correct?**
19 A Yes.
20 **Q And it shows patient, date, dosage, all of**
21 **that stuff, right?**
22 A Correct.
23 **Q Okay. And it's kind of like, I mean, I**
24 **characterize it it's like a master sheet; correct?**
25 A Okay. Yeah.

1 **Q I mean, I don't know. Maybe it's not. Okay.**
2 **And then you have other exhibits like 40, 42, 43, 44?**
3 A Uh-huh.
4 **Q They're patient records, right?**
5 A Correct.
6 **Q Okay. Is there any statute that says you**
7 **can't have a separate sheet to document the propofol,**
8 **that that's a violation?**
9 A I think that would fall under pharmacy board
10 regulations because we don't monitor prescriptions or
11 drugs. That's not our purview, so that would not be a
12 question I'd be able to answer. The medical records are
13 supposed to be complete and accurate --
14 **Q Okay.**
15 A -- and timely.
16 **Q Okay. And you've subpoenaed them and they**
17 **sent it over?**
18 A They are supposed to. Based on the order
19 that we send, they should be sending us a complete and
20 accurate set of records which would include every
21 medication that's being used during a procedure or
22 anything other than that. If you have a separate log,
23 that's excellent.
24 I don't know what the pharmacy board
25 regulation would be for keeping a log of a specific drug,

1 especially a drug that's not a prescription, but not
2 noting it in the record doesn't make them complete and
3 accurate.
4 **Q Okay. Well, it's noted -- the records you**
5 **got, you got the records of everyone that was given**
6 **propofol and the dosage, right?**
7 A Yes, but I would think that it would be a
8 HIPAA violation to send that sedation log to every single
9 patient that's listed on there.
10 **Q Why?**
11 A Because you're providing other patient
12 information too.
13 **Q I understand that, but that's not -- there's**
14 **no -- They sent it to you, right? Is that a HIPPA**
15 **violation if they send you the medical records?**
16 A No, but we only ask for one. If we only ask
17 for a second person and we get a whole list of people, it
18 should have been redacted.
19 **Q Well, you asked for everybody.**
20 A We asked for everything not everybody. I
21 don't --
22 **Q Well, okay. I mean --**
23 A According to the allegation letter we asked
24 for one, so I'm not sure what you're trying to get it.
25 **Q You asked for all of the medical records from**

1 **Vida?**

2 A I'm pretty sure there was only one patient

3 listed. I didn't see a letter that requested medical

4 records or an order that requested medical records from

5 every single person that was only that list.

6 **Q Well, you got all of the medical records from**

7 **Vida?**

8 A For every single person? Okay. I'm confused

9 at what you're trying to ask me.

10 **Q I just said how did you get all of the**

11 **medical records from Vida?**

12 A Well, the medical records that I saw, I only

13 saw -- I didn't see every single medical record for every

14 person that was listed on Exhibit 11. There were a lot

15 more names on there, and I don't recall in the exhibits

16 that I was able to view yesterday that every single one

17 of those people was listed there.

18 **Q Okay. So let's backtrack and go back again.**

19 **You said: Look. You're required to send complete**

20 **records; correct?**

21 A Correct.

22 **Q I said well, the sedation log shows the**

23 **dosage, the date, everything of the propofol; correct? I**

24 **mean that; correct?**

25 A Correct.

1 **Q And I asked you: Is there any law that that**
2 **violates? And you said no, but it might be a HIPAA**
3 **violation; is that correct?**
4 A Yes.
5 **Q And then you also said that might be a**
6 **pharmacy issue, too.**
7 A The regulation of the log for pharmaceuticals
8 or anything like that would be a pharmacy regulation.
9 **Q And that's not in your purview?**
10 A Correct. Am I allowed to ask a question in
11 regards to what he's referencing?
12 HEARING OFFICER WOODMAN: Sure.
13 THE WITNESS: I'm curious to know if the
14 sedation log is kept a part of every single chart. In
15 order for it to be considered part of a complete medical
16 record, that sedation log needs to be copied and put into
17 every single person's medical report. So every time it's
18 requested, it needs to go with every single medical
19 record.
20 **Q (BY MR. FLANGAS:) Got it. It's Vida Spa**
21 **sent it to you. I'm curious, too.**
22 A It's --
23 **Q So my answer to you is I'm curious, too. I**
24 **mean, Vida Spa sent you all of this, right?**
25 A That would be the requirement would be that

1 that sedation log would be included in every single
2 person's log.
3 **Q Right. And it's a custodian record of**
4 **records is responsible for that, right?**
5 A Yes, the custodian of the medical records
6 would be responsible for making sure that it's complete
7 and accurate.
8 MR. FLANGAS: Complete and accurate. Thank
9 you. That's all.
10 HEARING OFFICER WOODMAN: Very good. Thank
11 you.
12 Mr. White, redirect examination?
13
14 REDIRECT EXAMINATION
15 BY MR. WHITE:
16 **Q I'm going to start with the last question.**
17 **He asked you if the custodian of records is responsible**
18 **for making sure that the records are legible, timely,**
19 **accurate, complete, as the statute says.**
20 A Uh-huh.
21 MR. FLANGAS: I just object. I didn't say
22 that. She testified that way. She said the custodian of
23 records is responsible that is complete and accurate.
24 MR. WHITE: That's why I'm rehabilitating her
25 right now.

1 MR. FLANGAS: Okay. Okay.
2 HEARING OFFICER WOODMAN: Go ahead.
3 **Q (BY MR. WHITE:) Do we discipline custodians**
4 **of records if it's not one of our licensees for their**
5 **records being not legible, accurate, complete?**
6 A No, we wouldn't have jurisdiction.
7 **Q So whose responsibility is it that those**
8 **records, when we discipline somebody for that, that those**
9 **records are not legible, timely, accurate and complete?**
10 MR. FLANGAS: Objection, leading.
11 MR. WHITE: I asked her a question whose.
12 HEARING OFFICER WOODMAN: It's overruled. He
13 asked her open-ended whose responsibility is it. He
14 didn't suggest the answer.
15 **Q (BY MR. WHITE:) Whose responsibility is it**
16 **that the records are timely, legible, accurate and**
17 **complete?**
18 A The licensee. The medical doctor who created
19 the chart.
20 **Q If you know, do you know if a custodian of**
21 **records is checking on the accuracy and the completeness**
22 **of a doctor's records before they just put them into**
23 **custody?**
24 A I don't know specifically, but I can tell you
25 from my experience as an investigator no, usually not.

1 They get sent from the staff.

2 **Q I'm going to ask you to turn to -- I'm going**

3 **to grab number two binder. It's not marked. I need you**

4 **to look at Exhibit 98. And specifically, I need you to**

5 **turn to page 2379. Give you time to get there.**

6 A Yes, got it.

7 MR. FLANGAS: Just give me a second.

8 MR. WHITE: I'll give you guys time to get

9 there.

10 MR. FLANGAS: 98?

11 MR. WHITE: Yeah.

12 THE WITNESS: It's right here.

13 MR. FLANGAS: Thanks.

14 HEARING OFFICER WOODMAN: 2379?

15 MR. WHITE: 2379. Correct.

16 MR. FLANGAS: 2379?

17 MR. WHITE: Yes. Ms. LaRue, I'd ask you to

18 read starting on line 19 on that page.

19 THE WITNESS: Okay.

20 MR. WHITE: And then -- Let's see. And then

21 through the end of 2380.

22 MR. FLANGAS: I'm just going to object as to

23 foundation.

24 MR. WHITE: This has already been admitted.

25 This is -- I will represent this is the testimony from

1 Ms. Friedman at the summary suspension hearing. It was a
2 way to get in Exhibit 11, and Exhibit 11 is still the
3 same Exhibit 11. We're talking about the sedation logs.
4 MR. FLANGAS: Okay. But having her read
5 testimony of some other witness is not the appropriate
6 way to, you know, she has no personal knowledge of the
7 testimony of this Ms. Friedman.
8 HEARING OFFICER WOODMAN: I don't have a
9 problem.
10 MR. WHITE: Ms. Friedman was under oath at a
11 summary suspension. Go ahead.
12 HEARING OFFICER WOODMAN: I don't have a
13 problem with her reading this.
14 MR. WHITE: I don't want her to read it out
15 loud.
16 HEARING OFFICER WOODMAN: Right. That's what
17 I mean. Reading it to herself. The important part will
18 be the questions that are asked afterward.
19 MR. FLANGAS: Okay. I see.
20 MR. FLANGAS: How many pages are we reading?
21 MR. WHITE: One and a half.
22 MR. FLANGAS: To what page?
23 MR. WHITE: To the bottom of 2380.
24 MR. FLANGAS: Okay.
25 MR. WHITE: One and a quarter.

1 THE WITNESS: Okay. I'm done.

2 **Q (BY MR. WHITE:) Okay. So I'm going to ask**
3 **you now because Mr. Flangas has been asking you questions**
4 **regarding the sedation log and how we discovered it.**
5 **After reading that, does it appear that those -- that**
6 **sedation log was sent when we requested it in letters?**

7 MR. FLANGAS: I'll object to calls for
8 speculation as to her personal knowledge.

9 HEARING OFFICER WOODMAN: Will you clarify
10 the question? Because having her testify based on what
11 she just read in the transcript, she's obviously not
12 testifying from her own knowledge. We have to determine
13 whether she had independent knowledge of that or not.

14 The other part of it is since it's in the
15 record, you obviously can argue it and it's there. It's
16 part of the evidence. But we need to clarify whether she
17 had any independent knowledge of the answer to your
18 question outside of just reading the transcript.

19 **Q (BY MR. WHITE:) All right. Do you have any**
20 **independent knowledge of how the sedation logs were --**
21 **how we became in possession of the sedation logs other**
22 **than reading that transcript?**

23 A Oh, yes. I'm aware of the investigation.
24 I'm aware of the inspection that happened with the Senior
25 Investigator Friedman. I'm aware of the information that

she went -- that they went to the Vida Spa office. I'm aware of the information that they took pictures of prior to reading the testimony.

Q And so are you aware of what occurred during that inspection?

A Yes.

Q And so did they take pictures that we have in exhibits here right now?

A Yes, all of the photographs.

Q And are you aware -- not what from what you just read -- Are you aware that the sedation logs were discovered during that inspection?

A Yes.

Q Now, I'd ask you to take a look at, in that transcript you just read on page 2380, page 7, I'll ask you separately. Not page 7. I'll ask you separately. Do you know when that inspection took place?

A It was in June of 2021.

Q Okay. I'd ask you to take a look at Exhibit 4 and 5. And do you see a date on page 15 of Exhibit 4 of that letter?

A Yeah.

Q Okay. What is it?

A March 19th, 2021.

Q Okay. And the second request, which is

1 **Exhibit 5, what's the date at the top of that?**
2 A April 27, 2021.
3 **Q And the inspection occurred in June of 2021?**
4 A June 2021.
5 **Q Okay. So did we have that sedation log? Did**
6 **we get that sedation log from our request or was it --**
7 **did it just get discovered somewhat luckily at the**
8 **inspection?**
9 A From what I know of the investigation, after
10 discussions with the senior investigators in the Las
11 Vegas office, we didn't receive that information directly
12 from the respondent. It was found in the office.
13 **Q And when you say "it," meaning what?**
14 A Oh, the sedation log. Sorry. Exhibit 11.
15 MR. WHITE: Thank you.
16 HEARING OFFICER WOODMAN: And for what it's
17 worth, I have independent recollection of that testimony
18 from the prior hearing, and other than the fact that he's
19 got access to the transcript, that's where I guess I have
20 a little bit of an advantage over you. You weren't here
21 at that hearing, but I do recall that the sedation log
22 was discovered during the inspection of the facility.
23 MR. WHITE: I will represent I don't know the
24 exact date, but Meg sent Mr. Flangas the transcript to
25 this when he came on the case, the transcript of the

1 summary suspension hearing and whatever else we had, all
2 of the exhibits soon after. Whenever he came on the
3 case, it was sent to him.
4 MR. FLANGAS: Okay.
5 MR. WHITE: So he's had it for several
6 months.
7 **Q (BY MR. WHITE:) Indulgence, please. You**
8 **were asked by Mr. Flangas if you made phone calls to**
9 **doctors when they don't -- or licensees, I should say.**
10 A Uh-huh.
11 **Q If they do not comply with orders of the**
12 **Board for records, second requests. Do you remember**
13 **that?**
14 A Yes.
15 **Q Okay. How many -- just in general, how many**
16 **investigations could an investigator be doing at one**
17 **time?**
18 A I can tell you that my current case count is
19 80. We were upwards of 140 at one point each.
20 **Q Upwards of a hundred?**
21 A Each. Yes.
22 **Q And if you know, if you can just give a**
23 **ballpark, how many sometimes would require a phone call**
24 **out of those 80, say, they don't comply on the first**
25 **request or order?**

1 A Seventy. It's very possible that it could be
2 every single one honestly. I mean, it's -- yeah.
3 MR. FLANGAS: We're dealing with doctors
4 here.
5 THE WITNESS: Yeah. It could be all -- I
6 make several phone calls every single day, so yes. It
7 could be everyone.
8 **Q (BY MR. WHITE:) So you make several phone**
9 **calls?**
10 A Every day.
11 **Q And how do you prioritize those phone calls?**
12 A For me, case number. I go in order for the
13 case that's received. You start from the back and work
14 forward. The ones that I've had the longest are the ones
15 I'm going to follow up more often if I haven't heard from
16 them as opposed to the ones that are newer, you give them
17 a little more time.
18 **Q So these phone calls are actually phone calls**
19 **to them to get records?**
20 A Yes. If they don't -- if they don't have a
21 representing attorney, then yes, it goes directly to the
22 physician.
23 **Q Have doctors -- and you don't have to mention**
24 **any names -- have doctors been disciplined in the past by**
25 **this Board for ignoring Board orders and more**

1 **specifically record requests?**
2 A Yes.
3 **Q Now Mr. Flangas also asked you some questions**
4 **regarding medical facilities versus where you can do**
5 **liposuction or general anesthesia, that kind of thing?**
6 A Yeah.
7 **Q Do you remember those questions?**
8 A Yes.
9 **Q Okay. The compliant in this matter, which is**
10 **a filed document, addresses 63373. Are you aware of**
11 **that?**
12 A Yes.
13 **Q Do you need to take a look at it really**
14 **quickly before I ask you questions?**
15 A If you don't mind, yeah.
16 **Q Okay. I'm just going to show her my copy.**
17 **It's just the complaint. It's a filed copy of the**
18 **complaint: Second amended. And specifically, I'll be on**
19 **page five of 11 at the top, so just read that to**
20 **yourself.**
21 A Okay. Okay.
22 **Q Okay. So are you aware that Nevada Revised**
23 **Statute 630 is part of the Nevada Medical Practice Act?**
24 A Yes.
25 **Q And are you aware that we're governed by**

1 **that? That is a statutory chapter that we use very often**
2 **in disciplining doctors if need be.**
3 A Yes.
4 **Q And did you say also that it refers to**
5 **statutory scheme of Chapter 449?**
6 A Correct.
7 **Q Okay. Do you know what 449 has to do with**
8 **mostly?**
9 A 449, I believe, is about medical facilities.
10 **Q Okay. So by reading that, does it appear to**
11 **you we have a statute that's very specific to whether**
12 **sedation can be done in a facility that's governed by and**
13 **monitored by the Board of Health?**
14 A Yes.
15 **Q Mr. Flangas also asked you some questions**
16 **regarding reporting sedations and nonaccredited**
17 **facilities; right?**
18 A Correct.
19 **Q Do you remember that?**
20 A Yes.
21 **Q Okay. Is that reporting, for lack of a**
22 **better term, done on the honor system?**
23 A Yes.
24 **Q I can't speak for the Board of Health, but do**
25 **we have any way or resources to go out and monitor**

1 **whether they're using sedation in a facility that**
2 **shouldn't be and that they should report it?**
3 A No, we don't have the capability for that.
4 We don't have the staff for that either.
5 **Q If you know, as an investigator, and being an**
6 **experienced investigator, 16 and a half years experience;**
7 **correct?**
8 A Correct.
9 **Q As part of the investigative process and what**
10 **we collect in medical records, are we exempt from HIPAA?**
11 A Yes.
12 MR. WHITE: That's all I have. I'll pass the
13 witness.
14 HEARING OFFICER WOODMAN: Recross?
15 MR. FLANGAS: Yes, thank you.
16
17 RECROSS EXAMINATION
18 BY MR. FLANGAS:
19 **Q When Mr. White asked you who is responsible**
20 **to have complete records, right, because, I mean, I asked**
21 **you the custodian of records needs to be complete and**
22 **accurate; correct?**
23 A To clarify, you asked me who was responsible
24 for the records, and that would be the custodian. The
25 M.D. is responsible for creating the chart to be complete

1 and accurate.

2 **Q Correct. As a matter of fact, there's a**

3 **statute on that; correct?**

4 A Correct.

5 **Q And the statutes names the M.D. as a medical**

6 **director; correct?**

7 A I don't believe the statute is specific to

8 name the -- I'd have to look at it's 63030 --

9 MR. WHITE: 306. If I can help out, it's

10 3062.

11 THE WITNESS: 3062, yeah. I don't remember I

12 don't believe that it names a medical doctor as a medical

13 director. I believe it names -- I'd have to look and

14 read the statute again.

15 **Q (BY MR. FLANGAS:) Well, the medical**

16 **director -- Let's just recap. We talked about who is**

17 **responsible for the records before; correct?**

18 A Who is responsible to be custodian of the

19 records.

20 **Q Right. And we talked about the medical**

21 **director or the facility or maybe a physician, and it**

22 **kind of depended on the contract also; correct?**

23 A That is correct. That's for custodianship of

24 the records.

25 **Q Okay. Right. And that's also for delivering**

1 **a complete file to you; correct? The custodian of**
2 **records is the one who delivers the complete file?**
3 A We don't ask the custodian of records for the
4 complete and accurate file. We ask the respondent or the
5 medical doctor who created the chart is who we ask the
6 records directly from because the medical director could
7 be anybody.
8 **Q Okay. That's fine. But then what happens is**
9 **they direct you to the custodian of records to send the**
10 **files?**
11 A What usually happens when we send a request
12 to the doctors, the office staff is tasked -- or whoever
13 they put in their medical records department -- is tasked
14 with sending us the records.
15 **Q That's fine. And of course every physician**
16 **is responsible to make sure that the medical records that**
17 **they have their hands on is accurate.**
18 A The chart that they've created, yes. They're
19 responsible for complete and accurate records.
20 **Q And there's also a medical director of a**
21 **facility is responsible for the whole operation of that**
22 **facility as a doctor. Is that correct?**
23 A The medical --
24 MR. WHITE: Hold on. Objection, calls for
25 speculation, and it's vague, and it's not relevant.

1 HEARING OFFICER WOODMAN: Well, I think in
2 the context of all of the questions that have been asked
3 of Ms. LaRue in particular today, I think it's relevant.
4 But if you back up a little bit and make sure you're
5 taking some bite-sized pieces that we know she can
6 answer.
7 **Q (BY MR. FLANGAS:) Okay. I think what I'm**
8 **asking is: What's the purpose of a medical director for**
9 **a facility? How is that as far as you know?**
10 MR. WHITE: Objection.
11 THE WITNESS: I wouldn't be able to --
12 MR. WHITE: Calls for a legal conclusion.
13 MR. FLANGAS: So you don't know what a
14 medical director's role would be in the facility?
15 THE WITNESS: No. It's their job
16 description. That wouldn't be part of anything that I
17 would be involved in.
18 **Q (BY MR. FLANGAS:) Aren't there statutes**
19 **talking about facilities having medical directors? If**
20 **you know.**
21 A No, I couldn't -- I'm sure there are. I
22 don't know specifically what those are. I'm happy to
23 look at them if you'd like, but --
24 MR. FLANGAS: No. I just want your personal
25 knowledge. Which exhibit was this from, Natasha?

1 MR. SMITH: 17.

2 **Q (BY MR. FLANGAS:) Okay. Previously,**
3 **yesterday you testified -- and I guess maybe you were**
4 **mistaken, but you testified that all of the medical**
5 **records sedation log was sent to you from the request.**
6 **Do you remember?**

7 A All I testified -- Well, I'd have to revisit
8 exactly what I said to you, but the medical records
9 should have been complete and accurate. I testified to
10 what I was reviewing that was sent. I don't know what
11 was sent directly to us because it wasn't my case --

12 **Q Okay.**

13 A -- so I don't know.

14 **Q You have no personal knowledge?**

15 A I have no -- the only knowledge that was in
16 those binders that sits in front of me because the case
17 was never mine.

18 MR. FLANGAS: Okay. And what exhibit was
19 this, Natasha? Seventeen?

20 MS. SMITH: Seventeen.

21 **Q (BY MR. FLANGAS:) I'm going to show you**
22 **Exhibit 17, page 124. That's a Certificate of Custodian**
23 **of Records from Vida Spa; correct?**

24 A Okay.

25 **Q Just asking. There's no doubt in our**

1 **testimony today Vida Spa was the custodian of records?**
2 A Correct.
3 **Q Okay. And as a custodian of records, they're**
4 **supposed to send you everything they have; is that**
5 **correct? That's what a custodian of records is supposed**
6 **to do according to your order?**
7 MR. WHITE: Objection, calls for speculation.
8 She doesn't deal with medical directors or custodian of
9 records or anything like that.
10 **Q (BY MR. FLANGAS:) Okay. You know, I'm going**
11 **to withdraw that question. It doesn't matter. Another**
12 **question is: You said that if they perform sedation at a**
13 **medical facility, they need to like voluntarily**
14 **self-report to you?**
15 A No, that's incorrect. If they perform
16 sedation in an in-office setting that is not one of the
17 16 that's listed in 449, then it has to be reported on
18 their biennial renewal.
19 **Q Okay. And when you say "they," you're**
20 **talking about --**
21 A Medical doctors.
22 **Q -- the actual business there?**
23 A No. The medical doctor. Our licensees,
24 30665, is required -- if you're performing sedation in an
25 office setting as a medical doctor, you're required by

1 the Board to notify during your biennial renewal the type
2 of procedure you're doing and how many of what different
3 type of sedation you're doing. It isn't the facility
4 that reports. It is the medical doctor because those are
5 the licensees.
6 **Q And what NRS is that?**
7 A 6330665.
8 **Q You're saying it too fast.**
9 A Oh, sorry. 630.30665.
10 **Q Okay. And that's not the facility or the**
11 **medical director. That's --**
12 A The medical doctor.
13 **Q -- who oversees all of the --**
14 A The medical doctor that's performing the
15 procedure.
16 **Q Okay. So what about a physician assistant?**
17 **Do they notify someone else?**
18 A The physician assistant should be supervised
19 by a physician, so I don't believe the statute is
20 specific to P.A.'s.
21 **Q Okay.**
22 A I believe the statute is specific to M.D.s,
23 but I could be incorrect. It may say "licensee". I'd
24 have to look at the specific language of that specific
25 statute.

1 **Q And how many medical doctors, in your**
2 **experience, know this?**
3 MR. WHITE: Objection, calls for speculation.
4 MR. FLANGAS: If you know.
5 HEARING OFFICER WOODMAN: Sustained.
6 MR. FLANGAS: Okay. That's fine.
7 THE WITNESS: Can I answer that question?
8 HEARING OFFICER WOODMAN: I sustained the
9 objection, so no.
10 THE WITNESS: Okay.
11 HEARING OFFICER WOODMAN: But that doesn't
12 mean it may not come back up.
13 **Q (BY MR. FLANGAS:) 30663?**
14 A 665.
15 **Q Oh, I'm sorry.**
16 HEARING OFFICER WOODMAN: If it's helpful,
17 I've got it in front of me. I can read it.
18 MR. FLANGAS: Yeah, I'm just looking. I got
19 it in the front of me right now.
20 THE WITNESS: Yeah, I don't know if it says
21 licensee or if it says medical doctor. That would make a
22 difference.
23 HEARING OFFICER WOODMAN: For the benefit of
24 the witness, it says: "Each holder of a license."
25 THE WITNESS: There you go. So that would

1 include P.A.'s.

2 **Q (BY MR. FLANGAS:) And a holder of a license**

3 **is a doctor; is that correct?**

4 A The holder of a license could be anybody that

5 we license at this Board: Doctor, physician assistant,

6 respiratory therapist or perfusionist. Those are the

7 holders of our licenses that we issue.

8 **Q Okay. And, you know, I read this right now**

9 **and it says: A holder of a license. Let me read it out**

10 **loud here.**

11 **"The Board shall require each holder of a**

12 **license to practice medicine to submit to the Board on a**

13 **form provided by the Board a report stating the number**

14 **and type of surgeries requiring conscious sedation, deep**

15 **sedation or general anesthesia performed by the holder of**

16 **the license at his or her office or any other facility."**

17 **Okay? So --**

18 A There should be a statute listed there for

19 the exempt facilities.

20 **Q Okay. I got it. And so it's a holder of a**

21 **license who reports the sedation at his or her office.**

22 **Right?**

23 A Correct.

24 **Q Okay. And you're not aware of who the**

25 **medical directors were for Vida Spa or are you? Do you**

1 **know any of them?**

2 MR. WHITE: Objection, relevancy.

3 MR. FLANGAS: Well, okay.

4 Objection, relevancy?

5 HEARING OFFICER WOODMAN: I'm going to

6 overrule it.

7 You can answer the question if you know the

8 answer.

9 THE WITNESS: No, I don't know the answer.

10 **Q (BY MR. FLANGAS:) Okay. And you don't know**

11 **what a medical director means for a facility; correct?**

12 A I know what a medical director is, but a

13 medical director isn't somebody that I am involved with

14 during the course of my investigation.

15 **Q Well --**

16 A Unless they are directly the medical doctor

17 that I'm investigating or asking for information from

18 specifically.

19 **Q Okay. A medical director is responsible for**

20 **everything that occurs medically at that facility?**

21 A Okay.

22 **Q Do you understand that?**

23 MR. WHITE: Objection, calls for speculation.

24 MR. FLANGAS: Okay. I'm going to postulate

25 to you. Are you aware that that's what a medical -- why

1 you have medical directors who are responsible for what
2 occurs at the facility?
3 THE WITNESS: Yes, I'm aware.
4 MR. WHITE: Objection.
5 HEARING OFFICER WOODMAN: And I'm going to
6 sustain the objection because there's probably a lack of
7 foundation there and I would --
8 MR. FLANGAS: Okay.
9 HEARING OFFICER WOODMAN: -- I believe that
10 what a medical director is here might be different from
11 what a medical director is there. I think that's going
12 to there are some commonalities, but I think there's
13 probably plenty of differentiation as well.
14 MR. FLANGAS: Okay. You know, another
15 question is this says the holder of a license at his or
16 her office. It would be the doctor's office. You know
17 what? That's all legal. I think this is all legal
18 arguments that we'll have to argue at closing because it
19 seems like it's all legalese at the statute, and I can't
20 have her define the statute, I guess.
21 HEARING OFFICER WOODMAN: I would agree that
22 you're going to talk to her about what she does based on
23 the existence of the statute, but the statute is the
24 statute.
25 MR. FLANGAS: Yeah. I'm going to show you

1 what's been marked as Exhibit K. Can you please look
2 that up, Ms. LaRue?
3 THE WITNESS: What binder would I find
4 Exhibit K?
5 HEARING OFFICER WOODMAN: That's going to be
6 the one that doesn't have the seal on it.
7 THE WITNESS: Oh, okay. The respondent?
8 This one? Exhibits?
9 HEARING OFFICER WOODMAN: Yep.
10 THE WITNESS: Okay. There you go.
11 **Q (BY MR. FLANGAS:) Can you go to page 105?**
12 **Actually, look at the first page of this.**
13 A Uh-huh.
14 **Q This is Vida Spa Employee Handbook and**
15 **Contract.**
16 A Okay.
17 **Q Okay?**
18 A Yes.
19 **Q Have you seen this before?**
20 A No.
21 **Q Can you go to page 105.**
22 A Okay.
23 **Q Can you read "Ownership of patient records"**
24 **to yourself.**
25 A Okay.

1 **Q I know you already testified that Vida Spa is**
2 **the custodian of records. Were you aware of this**
3 **agreement or this agreement that they had in the handbook**
4 **of Vida Spa?**
5 A No.
6 **Q Okay. You weren't aware of that. Well,**
7 **then, I guess you have testified before that the entities**
8 **or people responsible, sometimes that's governed by**
9 **contracts, right?**
10 A Correct.
11 **Q Agreements?**
12 A As to who the custodian of records is.
13 MR. FLANGAS: Okay. Just have one more
14 exhibit, and I don't know if I took it out. Do you know
15 what exhibit number it is?
16 MR. SMITH: It is L.
17 MR. FLANGAS: I'm going to direct your
18 attention to Exhibit L. I believe that one has already
19 been admitted in evidence.
20 HEARING OFFICER WOODMAN: L is in.
21 MR. WHITE: It has?
22 HEARING OFFICER WOODMAN: L is admitted.
23 MR. WHITE: Yes.
24 **Q (BY MR. FLANGAS:) Yeah. Have you seen --**
25 **this is a -- Have you seen this is a contract with**

1 **Dr. Borromeo and Vida Spa. Have you seen this before?**
2 A No.
3 **Q Okay. And I think you testified before you**
4 **don't know in this particular case what the**
5 **responsibilities were of the medical director for the**
6 **facility --**
7 A That's correct.
8 **Q -- correct? And here it says that he's**
9 **basically responsible to supervise P.A.'s and other**
10 **licensees, basically supervise the business. Right?**
11 A Uh-huh. Yes.
12 MR. FLANGAS: Okay. That's all.
13 MR. WHITE: That's all you have or that's all
14 of that question?
15 MR. FLANGAS: That's all I have.
16 MR. WHITE: Okay.
17 HEARING OFFICER WOODMAN: Do you have
18 redirect?
19 MR. WHITE: I do. Yes.
20
21 FURTHER REDIRECT EXAMINATION
22 BY MR. WHITE:
23 **Q Ms. LaRue, there were some questions**
24 **regarding completeness of records --**
25 A Uh-huh.

1 **Q -- by our licensees versus completeness of a**
2 **whole set of records by a medical director, right?**
3 A Uh-huh.
4 **Q Were you at all confused by the difference of**
5 **that when he was asking you that question?**
6 A I was confused by his question. I would like
7 to clarify the difference between what the custodian of
8 record is and what the requirements are for a medical
9 doctor as a part of the record.
10 **Q Let me do that.**
11 A Okay.
12 **Q So and I kind of asked this question before.**
13 **But just to clarify, so who is responsible for the**
14 **contents of the medical records as to whether they're**
15 **timely, legible, accurate and complete?**
16 A The medical doctor who created the chart.
17 **Q Or a licensee?**
18 A A licensee, yes, a licensee who created the
19 medical record is responsible for the accurateness, the
20 completeness, the timeliness, all of that.
21 **Q Now, and in your investigation of a case,**
22 **let's say you find out that the licensee that you're**
23 **investigating -- Let me ask this question. Do you find**
24 **after investigations occasionally, in general, that the**
25 **licensee that you're investigating is not the custodian**

1 **of records?**

2 A Yes, that's common.

3 **Q Okay. So at that point, what do you do in**

4 **your investigation?**

5 A We would contact the facility to get a copy

6 of the records.

7 **Q The facility that would be?**

8 A Or the location of the actual chart where

9 it's being held custodially.

10 **Q So at some point, do you determine in a case**

11 **like that -- just speaking in general terms -- at some**

12 **point, do you usually determine who the custodian of**

13 **records is?**

14 A Yes.

15 **Q And how do you find that out sometimes?**

16 A Usually, we'll get information from the

17 doctor directly that they are not the custodian of

18 records for whatever reason, but we can find the records

19 located at this facility or in this office or wherever

20 they are being kept by the custodian.

21 **Q And then what do you do at that point?**

22 A We'll request the records directly from that

23 location.

24 **Q The custodian of records?**

25 A Correct.

1 **Q And do you, at that point, do you know for**
2 **sure whether you're getting a complete set of records?**
3 A No. There's no way for us to know if we're
4 getting a complete set of records. It's the medical --
5 it's the licensee's responsibility to insure that the
6 record they created is complete and timely and accurate
7 whether they're the custodian of the record or not. It's
8 their responsibility to make sure that that's correct.
9 **Q And if you know, do you ever have licensees**
10 **contact their custodian of records to make sure that a**
11 **complete set of records are being sent to the Board when**
12 **requested or ordered?**
13 A Yes. Yes, that happens often.
14 **Q They do go and check?**
15 A Correct.
16 **Q And have you ever had a request from a doctor**
17 **to help in that, help you get from the custodian of**
18 **records a complete set of records?**
19 A Yes.
20 **Q And I say doctor, but I mean all of our**
21 **licensees.**
22 A Yes, that happens.
23 **Q You had some questions about -- or excuse me.**
24 **You heard some questions from Mr. Flangas about medical**
25 **directors. There was a few of those. Do you investigate**

1 **-- Okay. Are medical directors -- Are all medical**
2 **directors our licensees?**
3 A Not all, no.
4 **Q So but do you occasionally investigate a**
5 **licensee who has self-proclaimed to be a medical**
6 **director?**
7 A Yes.
8 **Q Are you familiar with any statutes in our**
9 **medical Nevada Medical Practice Act that mentions the**
10 **word "medical director"?**
11 A Not that I'm aware of. No.
12 **Q Is it statutorily defined at all as far as**
13 **for, like in this instance, for a med spa?**
14 A Not that I'm aware of.
15 **Q The form for reporting those events when**
16 **sedation is used in a facility that's not accredited to**
17 **do that, but the ones where they should report it, I**
18 **think it's NRS 630.30 --**
19 A 665.
20 **Q -- 665?**
21 A Correct.
22 **Q Are those provided on our website?**
23 A Yes.
24 **Q So it's not something we would just send to**
25 **every licensee and say: Here you go. Just in case you**

1 **have it, if you have one of these events, please fill**
2 **this out and send it back to us?**
3 A Not anymore. Once the statute changed and it
4 only became required to report the events as opposed to
5 the negative reporting, we no longer send the form out.
6 The form is available on the website during license
7 renewal because it's required for each licensee holder to
8 attest on their renewal that they have completely and
9 accurately reported correctly.
10 **Q So is it only reported during renewal?**
11 A Biennial renewals. Yes. So every licensee
12 holder has to attest that they have accurately and
13 completely reported the 306 -- based on the statute
14 30665.
15 **Q And that goes -- that's just during renewal.**
16 **So does it go into their renewal packet?**
17 A It's part of the application for renewal.
18 Now we -- it's part of the -- yes, it's part of the
19 attestations on the renewal. So in order for you to
20 complete your renewal, you have to attest that you
21 completely and accurately reported either yes or no that
22 you do those procedures or don't.
23 **Q So would it be the doctors or any licensee**
24 **that's doing this, would it be their -- any of our**
25 **licensees, I should specifically say -- Would it be their**

1 **responsibility to keep a log of those and then report**
2 **them all at once in a biennial renewal?**
3 A Yes. During the biennial renewal is when I
4 receive those forms, and they have to be attested before
5 the renewal can be completed. So every licensee is
6 required to have that knowledge, have access to that form
7 and to know that information.
8 **Q Do we ever get licensees that report those on**
9 **a quarterly basis or report them before renewal?**
10 A No, no. People try. I get them to not
11 because I don't want them then. I collect -- I actually
12 am the person on the staff that collects those forms.
13 They come directly to me.
14 **Q And what, do you make a phone call --**
15 A No.
16 **Q -- to them?**
17 A It's part of their license renewal process.
18 **Q Well, the ones that try and report early.**
19 A Oh, yes. I usually get calls about people
20 who want to send the form, or if they send it, I just
21 hold onto it and then verify that they attested correctly
22 on their renewal form.
23 **Q So just so everybody knows and to clarify,**
24 **those are only reported every two years?**
25 A Every two years during the license biennial

1 renewal period.

2 **Q Which is the odd years?**

3 A Every odd year. Correct.

4 **Q So we'll have one coming up this coming year:**

5 **2023?**

6 A Yes, that would be correct.

7 MR. WHITE: All right. I have nothing

8 further.

9 HEARING OFFICER WOODMAN: Cross?

10 MR. FLANGAS: I don't think so. I think I

11 understand it.

12

13 FURTHER RECROSS-EXAMINATION

14 BY MR. FLANGAS:

15 **Q You send in the form to report the sedation**

16 **during your renewal?**

17 A Correct. If you're doing the sedation in the

18 office as based on what the statute is, you have to send

19 me the form before you can renew your license and then

20 there's an attestation on the renewal form that says yes,

21 I did do this appropriately or correctly, or I'm not

22 exactly sure how it's worded before you can proceed

23 forward with your renewal.

24 **Q And it's part of a form that goes out to --**

25 **it's a renewal packet?**

1 A Every licensee gets one. If you have -- you
2 want to renew your license, you have to attest and so you
3 have to know.
4 MR. FLANGAS: Got it.
5 HEARING OFFICER WOODMAN: Very good. Is
6 Ms. LaRue excused?
7 MR. WHITE: I think so.
8 MR. FLANGAS: Yeah.
9 HEARING OFFICER WOODMAN: Thank you,
10 Ms. LaRue. I appreciate it.
11 THE WITNESS: Thank you.
12 HEARING OFFICER WOODMAN: Okay. Are we going
13 to go with Dr. Phillips? Let's take five.
14 (Recess.)
15 HEARING OFFICER WOODMAN: We'll go back on
16 the record of Dr. Phillips' case, and after concluding
17 with Ms. LaRue, we'll proceed next with examination, at
18 least in the Board's case, Board's examination of
19 Dr. Phillips. And so to begin with that, Dr. Phillips,
20 I'd need you to raise your right hand and our reporter
21 will swear you in.
22
23 MARYANNE DEFOREST PHILLIPS, M.D.,
24 having been first duly sworn, was
25 examined and testified as follows:

1 HEARING OFFICER WOODMAN: All right then.
2 Mr. White?
3 DIRECT EXAMINATION
4 BY MR. WHITE:
5 **Q Thank you, Dr. Phillips. For the court**
6 **reporter, would you please say your first and last name**
7 **and spell both.**
8 A Maryanne: M-A-R-Y-A-N-N-E. Phillips:
9 P-H-I-L-L-I-P-S. And if I talk fast, just slow me down.
10 MR. WHITE: Miss court reporter, can you hear
11 her okay too?
12 THE COURT REPORTER: I can.
13 HEARING OFFICER WOODMAN: You're a soft
14 talker.
15 THE WITNESS: I know. I'm sorry. I'll try
16 to project.
17 **Q (BY MR. WHITE:) Dr. Phillips, are you aware**
18 **that as you sit here today, you're still subject to a**
19 **settlement agreement from 2019?**
20 A Yes.
21 **Q And you're aware that the settlement**
22 **agreement from 2019 allowed you to be an anesthesiologist**
23 **or at least that settlement agreement allowed you to**
24 **administer certain prescriptions that are contained in an**
25 **exhibit from 2016? Sorry. Let me rephrase that**

1 **question.**

2 **Are you aware under that settlement agreement**

3 **of 2019 that you are able to administer certain**

4 **prescriptions or controlled substances as an**

5 **anesthesiologist?**

6 A Yes.

7 **Q And are you aware that as of right now, your**

8 **licensed to prescribe controlled substances is suspended?**

9 A Yes.

10 **Q And that would also -- Well, let me ask you.**

11 **Does that also lead into the DEA suspending your license?**

12 A No.

13 **Q Do you have a DEA license?**

14 A No. I retired it in 2014.

15 **Q Are you also aware that the 2019 settlement**

16 **agreement incorporated an older settlement agreement from**

17 **2016?**

18 A I'm partially aware. I'm not clear on all of

19 the details.

20 **Q Let me ask you another question. I'll show**

21 **you some exhibits if necessary. Do you remember, in**

22 **December of 2017, at the Board meeting, modifying your**

23 **settlement agreement from the -- and I should clarify.**

24 **The 2016 settlement agreement.**

25 A Yes. I was exonerated from probation at that

1 time.

2 **Q Correct. But do you also remember that the**

3 **conditions in place, they remained in place?**

4 A The conditions limited me to not practice

5 pain management, and that was on my license.

6 **Q Can you please turn to -- and this might be**

7 **helpful to be over there, I guess, but to Exhibit 101.**

8 **Do you have it in the front of you?**

9 A I don't.

10 **Q That's okay.**

11 MR. FLANGAS: I wasn't even thinking. Here

12 you go. What page?

13 MR. WHITE: I'm sorry. 2533.

14 MR. FLANGAS: Okay. That's this page.

15 **Q (BY MR. WHITE:) Do you recognize this**

16 **document?**

17 A Yes.

18 **Q Okay. Is this an order that was ordered --**

19 **that was issued after you came to the Board meeting in**

20 **December of 2017?**

21 A Yes. My license was restored to active

22 status with all conditions remaining except for probation

23 is removed.

24 **Q Right. So does that help you answer the**

25 **question I had just a minute ago, which is: Did all of**

1 **the conditions and restrictions remain in full force and**
2 **effect but you were off probation?**
3 A Yes. The conditions of practice.
4 **Q Okay.**
5 MR. FLANGAS: And, you know, just for the
6 record, the document speaks for itself. I don't know --
7 HEARING OFFICER WOODMAN: Yeah, depending on
8 the questions, he can inquire into some of this, but I
9 agree that it's a legal document.
10 MR. WHITE: And I think it's already in too,
11 right? We stipulated to this one?
12 MR. FLANGAS: If it's not, I'll stipulate.
13 HEARING OFFICER WOODMAN: It's 101.
14 MR. FLANGAS: 101. I don't think I objected
15 to that one.
16 HEARING OFFICER WOODMAN: It's in.
17 **Q (BY MR. WHITE:) Okay. Now are you aware**
18 **that your 2019 settlement agreement, of which we've**
19 **established that you're still under, you're still subject**
20 **to that 2019 settlement agreement incorporated the 2016**
21 **settlement agreement?**
22 A Yes.
23 **Q Okay. Now, you're aware that the 2019**
24 **settlement agreement or are you aware that the 2019**
25 **settlement agreement -- everything was supposed to be**

1 **completed in early June of this year?**
2 A In respect to what?
3 **Q In other words, that settlement agreement was**
4 **approved by the Board in June of 2019, early June of**
5 **2019?**
6 A Correct.
7 **Q And it gave you three years to do a number of**
8 **conditions. Do you remember that?**
9 A Yes.
10 **Q Okay. So some of them were you were going to**
11 **take the 22 hours of prescribing class?**
12 A Yes.
13 **Q And did you do that?**
14 A Yes.
15 **Q And did you do 100 hours of community**
16 **service?**
17 A Yes.
18 **Q And I think --**
19 HEARING OFFICER WOODMAN: While he's looking,
20 just for my edification, the prescribing classes, was
21 that like continuing education credits?
22 THE WITNESS: Yes, and there was one class
23 that was designated by the Medical Board for me to take
24 for City of Reno, Nevada.
25 HEARING OFFICER WOODMAN: Okay.

1 THE WITNESS: They came and gave it in Las
2 Vegas, but --
3 HEARING OFFICER WOODMAN: Okay. So from the
4 medical school?
5 THE WITNESS: Yes.
6 HEARING OFFICER WOODMAN: Okay.
7 **Q (BY MR. WHITE:) Do you also remember it**
8 **required you to pay costs of $15,000? And I think you've**
9 **completed that, right?**
10 A Yes, I made it in the payments through my
11 attorney.
12 **Q Okay. And the last thing is it required you**
13 **to do what's called the Physician Assessment and**
14 **Competency Evaluation Program, otherwise known as PACE?**
15 A Correct.
16 **Q At the University of San Diego?**
17 A Correct.
18 **Q Okay. Now, you did not complete that within**
19 **the time allotted, did you?**
20 A I signed up for it as soon as I was assigned
21 to do it. They closed during COVID. As soon as they
22 would let me reenroll and schedule me for classes, I went
23 and paid them for the class, and they postponed my
24 scheduling because of COVID and their scheduling of their
25 doctors, psychiatrists and faculty.

1 **Q Were you aware that they didn't close for**
2 **very long at all?**
3 A I was told they closed for almost until 2021.
4 **Q 2021?**
5 A Until the end of the 2020. Well, COVID
6 started in March.
7 **Q Of 2020?**
8 A Of 2020. And I signed up in 2019, and they
9 said they were going to be closed through the whole
10 summer. I tried to get them to schedule me, and they
11 wouldn't. They said no, we don't have openings and then
12 you have to go through a physical test to make sure
13 you're not COVID. If you are sick, you have to take off
14 two weeks and not go.
15 And then their scheduling involves three
16 separate days that they have to schedule in San Diego.
17 So I paid them and went as much as they would progress.
18 And a lot of it was assessment forms online where they
19 asked you very detailed questions about your psych
20 history, your childhood, your upbringing, your career
21 things. You know, it was very detailed. Then I had to
22 have that evaluated by their physicians.
23 **Q So let's get the dates straight then. So you**
24 **said you signed up in 2019. Do you remember what month**
25 **that was?**

1 A It was right after.

2 **Q And I'll remind you --**

3 A I don't remember the exact month, but it was

4 right after I was assigned to take it.

5 **Q So and I'll remind you that the Board**

6 **approved your -- I don't remember the exact day, but the**

7 **Board approved your 2019 settlement agreement at the June**

8 **board meeting in 2019, and it would have been like right**

9 **around the first Friday in June?**

10 A Well, it was after that.

11 **Q So you signed up after that?**

12 A I did.

13 **Q So you're saying then for five months or so,**

14 **they wouldn't take you in before COVID became a problem**

15 **or even more than that? Maybe seven months?**

16 A Well, I did the hours of voluntary service

17 before that, and then when I went to, you know, actually

18 start, they had just closed and they said well, we may

19 have something online, but right now, we don't. And so

20 they postponed me until the summer.

21 **Q Summer of 2020?**

22 A Yeah. And then I sent in the other

23 requirements, these screening packages, and then they

24 said that I have to do a psychiatry online visit and then

25 I had to pay another fee for that. And so I signed up

1 for that and that got finally scheduled and then --

2 **Q So when you say you got signed up for that,**

3 **the psych eval?**

4 A Yeah.

5 **Q When did you sign up for that?**

6 A That was at the end of the year and then --

7 **Q Of what year?**

8 A 2020. And then in January of '21, I got

9 sick. And they wouldn't let me continue because I didn't

10 think it was COVID, but they just said you can't do it.

11 So a couple months later, I went back and I said: Okay.

12 Everything is okay. And then I proceeded to send in some

13 more money, and then I finally got scheduled for the

14 psychiatry visit.

15 **Q Okay. Do you know when that is or at least**

16 **when -- Do you know when you got scheduled or when the**

17 **actual scheduling occurred? Not the date that you're**

18 **scheduled to go in. When did you get scheduled for?**

19 A Christmas. January. Let's see. That one

20 was -- it was a couple of months after I, you know, paid

21 the $1,500 fee.

22 **Q When did you pay the $1,500 fee?**

23 A It was about September. Yeah, '21.

24 **Q September 2021?**

25 A No, wait a minute. That was the first fee,

1 and then the second fee was this last year.

2 **Q 2022?**

3 A Yeah.

4 **Q And what month? Was it December?**

5 A No. No, it was September this year.

6 **Q September?**

7 A Yeah.

8 **Q The second fee?**

9 MR. FLANGAS: Just for the record.

10 THE WITNESS: The second fee, yeah, for the

11 psychiatrist.

12 MR. FLANGAS: Just for the record, I'm going

13 to object if she's speculating. It sounds like she's

14 guessing on some of these things. But, you know, if you

15 have a best estimate, then go ahead and give it.

16 THE WITNESS: Yeah. The $1,500 --

17 MR. WHITE: Hold on. Let me say something --

18 sorry -- before you do. I understand she doesn't know,

19 but I don't think "Calls for speculation" is the proper

20 objection. I would just argue that back.

21 THE WITNESS: I have the receipts.

22 HEARING OFFICER WOODMAN: Well, and I'll just

23 clarify.

24 MR. FLANGAS: Hang on, Maryanne. Let him --

25 HEARING OFFICER WOODMAN: Make sure that if

1 you don't know the answer to a question, there's nothing
2 wrong with that.
3 THE WITNESS: I don't remember.
4 HEARING OFFICER WOODMAN: Just say you don't
5 know. And if you know you did something but it was
6 within a two or a three or four-month window, just
7 articulate that so that we make a good record so that if
8 you look at this transcript of what you said here today,
9 we won't be saying: Well, why did I say that? That's
10 not the case. You want to be as accurate as you can be.
11 A Okay.
12 HEARING OFFICER WOODMAN: And "I don't know"
13 is an acceptable answer.
14 THE WITNESS: Okay.
15 **Q (BY MR. WHITE:) I think you were about to**
16 **say something about maybe paying the second fee. So if**
17 **you know, when did you do that?**
18 A The second fee was only a couple of months
19 ago. Let's see. It had to be September. I don't know
20 the exact date.
21 **Q Well, the exact date is okay. If you can**
22 **remember the month and the year, that's acceptable too.**
23 A It is this year.
24 **Q And you think it's September 2022?**
25 A Yes, because I had to do a loan to do it.

1 **Q Now, just a yes-or-no question because I**
2 **don't want to know what has taken place at PACE. Have**
3 **you ever been to their facility yet?**
4 A For this PACE program?
5 **Q For the one from the 2019 settlement**
6 **agreement.**
7 A Okay. Because I've taken PACE before.
8 **Q No, I don't want to know. That's okay.**
9 **Yeah, no.**
10 A No, because they wouldn't schedule.
11 **Q I'll ask you this. Do you have records of**
12 **making all of these payments and scheduling with them**
13 **starting back in 2019 and in 2020, 2021? Do you have**
14 **records of that?**
15 A Yes, I do.
16 **Q Okay.**
17 A And the receipts?
18 **Q Okay. Dr. Phillips, did you do liposuction**
19 **at Vida Spa?**
20 A Yes, after I took the class.
21 **Q I'll get to that. Yeah. Did you use**
22 **propofol in acting as an anesthesiologist to sedate**
23 **patients at Vida Spa?**
24 A Only with Dr. Borromeo's case, a standby.
25 MAC anesthesia, which means I'm there for an emergency.

1 **Q MAC?**

2 A MAC. It means Monitor Anesthesia Care. It

3 is not general anesthesia. It's merely monitoring the

4 patient in an emergency and making sure they're stable on

5 discharge.

6 HEARING OFFICER WOODMAN: And, Dr. Phillips,

7 you said you did that under the direction of

8 Dr. Borromeo?

9 THE WITNESS: Borromeo. For his case.

10 **Q (BY MR. WHITE:) So you did not do the actual**

11 **-- for lack of a better term -- injection or IV of**

12 **propofol ever?**

13 A The nurse put the IV in and I gave a test

14 dose to make sure the patient wasn't allergic or had a

15 bad reaction and then just advised the nurse how much she

16 could give because it's very fast on and fast off. It

17 has to be done in a drip. And the minute you turn the

18 drip off, it's gone from the system. The liver

19 metabolizes it out immediately.

20 **Q So you did a test dose and advised the**

21 **nurse --**

22 A Uh-huh.

23 **Q -- that this person was or wasn't allergic to**

24 **propofol?**

25 A Yes.

1 **Q Is there a name for that?**
2 A Well, people that have egg allergies, certain
3 rubber allergies for some reason react to the ingredients
4 in propofol. And it's very hard to tell. And most
5 people haven't had it, so you can't ask them: Oh, are
6 you allergic to propofol because they don't know.
7 **Q Thank you. And you said people that for some**
8 **reason, some people that are allergic to eggs and rubber?**
9 A Yeah. You know, like bananas and rubber
10 plants. That sort of fiber plant, yeah.
11 **Q Is this otherwise known as test dose?**
12 A Test dose. Yes. It's given with antibiotics
13 as well to see if they're allergic to penicillins, so
14 forth. It's a safety issue.
15 **Q So it's: T-E-S-T D-O-S-E?**
16 A Test dose. Yes.
17 **Q Test dose. And then would you be present in**
18 **the room when the nurse was doing the propofol**
19 **administration?**
20 A Yes, I would be and available. If there was
21 any decrease in the blood pressure, respirations, any
22 adverse reactions, I would be available to assist in
23 resuscitating the patient or telling the nurse: Hey, you
24 know, back off a little bit so that it's safe and oxygen
25 has to be given, nasal oxygen. That's it.

1 **Q So you would -- Would you make statements to**
2 **the nurse saying hey, watch out for this and --**
3 A I would ask her: What's the vitals? What's
4 her pulse ox, the patient's pulse ox and make sure if
5 anything changed in an adverse reaction, I would
6 immediately help her correct it.
7 **Q Would you ever step in and take over?**
8 A Yes.
9 **Q So were you supervising?**
10 A I was supervising the nurses. Yes. Propofol
11 is given in the hospital with intubated patients in the
12 same manner by the nurses.
13 **Q And other than supervising the nurses, what**
14 **were you doing in that room?**
15 A At that time, nothing.
16 **Q Nothing?**
17 A No. Observing.
18 MR. FLANGAS: Just on the foundation, are we
19 talking about the Patient TTT case or just in general?
20 MR. WHITE: Oh, in general.
21 MR. FLANGAS: Okay.
22 MR. WHITE: Yeah. I'll ask more specific
23 questions.
24 MR. FLANGAS: Okay. And we're just talking
25 about when she was acting as an anesthesiologist not

1 during the lipo, right?
2 MR. WHITE: I think she said MAC: Monitored
3 Anesthesia Care.
4 MR. FLANGAS: Okay.
5 **Q (BY MR. WHITE:) And that was only during the**
6 **time that Dr. Borromeo was the medical director for about**
7 **a month?**
8 A Yes. And later on, there was a Dr. Serrano
9 there, the plastic surgeon that was doing -- so the
10 nurses were doing the same thing for him, and I was
11 advising them if they had a problem.
12 **Q Dr. Serrano, is he a surgeon?**
13 A I was told he was a plastic surgeon, I guess,
14 from Miami. I don't know anything about him other than
15 that.
16 **Q Okay. So what did Dr. Serrano do when he was**
17 **there? Was he doing liposuctions?**
18 A Yes.
19 **Q And so at what point did you start doing**
20 **liposuctions, if you can remember the month, at least the**
21 **month and the year?**
22 A After he left, let's see. March of '21. I
23 started the class. It was online initially and it was in
24 Arizona. It's the Elite Lipo that Dr. Sheep mentioned.
25 I was eligible to complete it in April, but I couldn't

1 get off and go over there to Arizona.

2 **Q Sorry. Let me slow you down for one second**

3 **because --**

4 A Sorry.

5 **Q Last question then. So part of it was**

6 **online?**

7 A Yes.

8 **Q And how long was this class? I mean, the**

9 **entire thing.**

10 A Several months to complete the online. You

11 had to go online and like they do with the universities

12 and take a test and watch the videos and watch the

13 demonstrations. And then at the end, you would go, which

14 I went June 22nd and did a hands-on in front of

15 instructors.

16 **Q And this was in 2021 obviously, right?**

17 A Yes.

18 **Q So June the 2nd, 2021, you went and did a**

19 **hands-on?**

20 A Hands-on, and then that's when they give you

21 your certificate even though you've been in the class,

22 you know, otherwise.

23 **Q Did you get a certificate?**

24 A Yes.

25 **Q Did you bring it with you?**

1 A I probably have it in my phone. I can look
2 for you.
3 MR. FLANGAS: I don't think it's part of the
4 record or we --
5 **Q (BY MR. WHITE:) I don't see it in the**
6 **exhibits. That's why I was wondering.**
7 **So how long was the in-person testing, I**
8 **guess, and training? How long did that last?**
9 A I did some training with Dr. Serrano because
10 he was a plastic surgeon, very experienced. And the
11 requirements for that is just to be a surgery assistant
12 if you have a plastic surgeon present, and I did almost
13 six months of training while he was doing his cases just
14 helping and, you know, being there and observing.
15 **Q Okay. Let me get the timeline straight. Was**
16 **that before you took the class?**
17 A Before and during the first part of the
18 class.
19 **Q Okay. Do you know, if you know, is**
20 **Dr. Serrano a Board certified plastic surgeon?**
21 A I don't know, but I believe he is.
22 **Q Do you know his first name?**
23 A No, I don't recall.
24 **Q And then so my question was actually -- thank**
25 **you for the other stuff you filled in. My question was**

1 **actually: How long did the in-person testing last in**
2 **Arizona? How many days were you there or was it a month?**
3 **I don't know.**
4 A About a week. I mean, it was -- yeah.
5 **Q How long would you say you were doing**
6 **liposuctions and fat transfers at Vida Spa? Just give me**
7 **month-to-month if you can.**
8 A During the class and training, maybe three
9 months maybe.
10 **Q Three months?**
11 A Yeah, the last three months.
12 **Q The last three months. Okay. So it's your**
13 **testimony you didn't do any liposuctions near the end of**
14 **2020?**
15 A No.
16 MR. WHITE: Can we take a short break? Would
17 that be okay?
18 HEARING OFFICER WOODMAN: Sure.
19 MR. WHITE: Just really fast like five
20 minutes.
21 HEARING OFFICER WOODMAN: Sure. It's 11:05
22 try to go back on at 11:16.
23 (Recess.)
24 HEARING OFFICER WOODMAN: We are back on the
25 record.

1 **Q (BY MR. WHITE:) Dr. Phillips, did you order**
2 **propofol for Vida Spa?**
3 A No.
4 **Q Who did?**
5 A They ordered it from a pharmaceutical company
6 on an invoice, and it was Vida Spa and then the propofol
7 was listed.
8 **Q If you can tell, who ordered it?**
9 A I was told that their medical directors had
10 the credentials that they needed to have the account with
11 the like PSI physician's supply and so forth, and that
12 all they had to do is just order it.
13 **Q Just reorder it?**
14 A Yeah. It was not a controlled substance.
15 **Q Were you ever medical director of Vida Spa?**
16 A No.
17 **Q If you know, was there ever a span of time**
18 **when there wasn't a medical director?**
19 A I don't know.
20 **Q You don't know?**
21 A I don't think so.
22 **Q If you can remember -- and we already heard**
23 **from Dr. Borromeo yesterday, and he said he was at the**
24 **office or the office -- at Vida Spa one time. How often**
25 **did you see other medical directors, if at all?**

1 A They were there actually frequently. They
2 also took care of her diet program, which included
3 writing for Phentermine, a diet pill. They had to come
4 and check the records on the diet program and make sure
5 the blood pressures were okay. I would see him
6 occasionally. Once in a while, they would ask me to
7 check a blood pressure and call them and say hey. And
8 that was the ones after Dr. Borromeo.
9 **Q When did you actually start at Vida Spa?**
10 A In June of 2020 when the (patient name
11 deleted) case, the TTT case.
12 **Q That was your first case?**
13 A No. It was about the third or fourth, but
14 standby. I mean, I didn't do anything for anyone else.
15 That was it. That was June.
16 **Q Okay. And when did you leave Vida Spa?**
17 A In June when Dr. Sheep started.
18 **Q June of 2021?**
19 A Uh-huh. Yes.
20 **Q Dr. Phillips, are you Board certified in**
21 **anesthesiology?**
22 A Not currently. I would have to recertify
23 because it expires in ten years.
24 **Q Have you ever been Board certified in**
25 **anesthesiology?**

1 A I've been Board certified in pain management
2 anesthesia only and fellowship trained.
3 **Q Not the anesthesia that we're talking about?**
4 A Not that one.
5 **Q Okay. Are you a Board certified plastic**
6 **surgeon?**
7 A No.
8 **Q Are you a Board certified cosmetic surgeon?**
9 A No, I've never been cosmetic. I've done
10 aesthetics. That's it.
11 **Q Are you aware that liposuction is a surgery?**
12 A I'm aware that it's an office procedure that
13 it's done -- the office liposuction is similar to an
14 epidural. Cannulation, there's no open incisions. No
15 need for more than local anesthesia.
16 **Q Is it surgery?**
17 A And it's limited to five liters of removal of
18 fat. And it is an office surgical procedure, but not
19 plastic surgery.
20 MR. WHITE: I'm going to object.
21 Nonresponsive. Is it surgery?
22 MR. FLANGAS: Hang on a second. I'm going to
23 respond to that. It is responsive because she's defining
24 what surgery is and what is allowed and said if it's
25 under five liters, you could do it in office setting.

1 MR. WHITE: I asked her a yes-or-no question.
2 She did not need to define surgery. I didn't ask her to
3 define surgery.
4 HEARING OFFICER WOODMAN: I'm going to
5 sustain the objection. And I would say, Mr. White, if
6 you want to ask the question again, make it very clear
7 you're asking for a yes or no.
8 **Q (BY MR. WHITE:) Yes-or-no question. Is**
9 **liposuction surgery?**
10 MR. FLANGAS: I'll object. It's vague.
11 What's the definition of surgery then? Because she just
12 -- I mean, just for the record, she just said it's a
13 surgical procedure that can be done in the office, but
14 it's not surgery like in the hospital. I don't know if
15 in her mind there's a difference or maybe --
16 MR. WHITE: I'd object to him testifying now
17 for the witness.
18 HEARING OFFICER WOODMAN: All right. So he,
19 I think, reiterated what she was saying in response to
20 your prior question.
21 And, Dr. Phillips, can you answer the
22 question yes or no whether liposuction is surgery?
23 THE WITNESS: No. I would have to explain
24 the difference between that procedure and the actual
25 surgery procedure because there is a difference.

1 HEARING OFFICER WOODMAN: Then maybe you
2 should ask her what is the definition of surgery.
3 **Q (BY MR. WHITE:) That's okay. Thank you**
4 **though. Yes or no. Is a fat transfer surgery?**
5 A No. It would be similar to an injection of
6 filler in aesthetics.
7 **Q Dr. Phillips, do you take any responsibility**
8 **for what happened to Patient TTT?**
9 A Absolutely.
10 MR. FLANGAS: Hang on a second. I would
11 object. The question is vague. What do you mean,
12 responsibility? As to what?
13 HEARING OFFICER WOODMAN: Sustained. You can
14 clarify.
15 **Q (BY MR. WHITE:) I'll withdraw. Actually,**
16 **yeah, no. Earlier you stated that you supervised the**
17 **nurses that were doing anesthesia.**
18 A Yes.
19 **Q Do you take responsibility as the supervising**
20 **anesthesiologist for what happened to Patient TTT?**
21 MR. FLANGAS: I'll object as to it's vague as
22 to what happened to TTT.
23 MR. WHITE: Okay. All right.
24 MR. FLANGAS: I just say what specifically
25 TTT is she supposed, you know, taking responsibility.

1 HEARING OFFICER WOODMAN: And, Mr. White, you
2 can give her the foundational facts that you're referring
3 to.
4 **Q (BY MR. WHITE:) Do you take responsibility**
5 **that -- Okay. Let me ask you a question this way. Were**
6 **you the only M.D. in the room when that happened when the**
7 **Patient TTT had some problems?**
8 A I was the only M.D. there. Yes.
9 **Q And I think we've established that. Who did**
10 **the liposuction?**
11 A Tammy Hankin.
12 **Q And she is what?**
13 A A P.A. of Dr. Borromeo of his -- her
14 supervising physician is Dr. Borromeo. A P.A. has to
15 have a supervising physician.
16 HEARING OFFICER WOODMAN: In between your
17 thought, for the benefit of our reporter who wasn't here
18 yesterday, Dr. Borromeo, I believe is: B-O-R-R-O-M-E-O.
19 **Q (BY MR. WHITE:) How do you know Dr. Borromeo**
20 **was her supervising physician?**
21 A I was told that he was a medical director and
22 her supervising physician.
23 MR. FLANGAS: For the record, I think
24 Dr. Borromeo testified to that, too. Not I think. I
25 know.

1 **Q (BY MR. WHITE:) Was it your decision to**
2 **discharge Patient TTT when the discharge occurred?**
3 A No, but I agreed with Tammy and the nurses'
4 decision to that point because the patient was stable at
5 that time, and as my role in being left as an
6 anesthesiologist, I would be responsible for making sure
7 the patient was stable and was received by the family to
8 transport home safely.
9 **Q Did it ever cross your mind -- if you can**
10 **remember -- did it ever cross your mind to have that**
11 **patient sent directly to the hospital rather than home?**
12 MR. FLANGAS: Foundation as to when.
13 **Q (BY MR. WHITE:) At the time of discharge,**
14 **did you ever think about discharging that patient to the**
15 **hospital?**
16 A No, not at the time that she -- before she
17 was taken downstairs. This is a picture of her.
18 **Q I know. Those haven't been admitted yet.**
19 A And she was monitored with the blood pressure
20 machine.
21 **Q I'm not asking you -- Nonresponsive. I'm not**
22 **asking you a question about that.**
23 A Okay.
24 **Q So to give us an idea, how much time lapsed**
25 **between the time of discharge and when she had her**

1 **syncope event in the parking lot?**
2 A She was dressed and assisted to the
3 wheelchair by the nurse, and the nurse took her down the
4 elevator. I did not go in the elevator because it was
5 crowded. And then I went downstairs because the daughter
6 was a very small person, and I figured that the nurse and
7 the daughter would need help helping her into the car.
8 And when I came down and saw that she was
9 having a syncopal episode, I went over to do, you know,
10 ACLS, BLS. I mean, advanced life support, which I'm
11 certified for if there was a problem, and we laid her
12 down.
13 So the syncope relieved a little bit because
14 it was just from hypovolemia, and she was drowsy but
15 responding and talking, but I made the decision that she
16 should go to the hospital because I wouldn't want to send
17 a patient home with family in that condition. It's very
18 common that they have a volume loss even taking out --
19 and she had almost four liters taken out by Ms. Hankins.
20 **Q So was it in your estimation or your**
21 **experience, was that what caused the syncopal event, you**
22 **think?**
23 A Yes.
24 **Q Would it have been prudent to monitor her**
25 **longer before discharging her?**

1 A Not always if the patient's not symptomatic.
2 Her blood pressure and vitals were very stable. Her
3 blood pressure was normal. It never did drop down to
4 below a normal level.
5 **Q So and actually, thank you for that**
6 **explanation, but how long was it, do you estimate, from**
7 **the time that that Patient TTT went in the elevator until**
8 **you called the hospital? You called the hospital, right,**
9 **you said?**
10 A I told Maureen to.
11 **Q You told someone to do that?**
12 A And used the phone. Yeah, she called.
13 **Q So from the time Patient TTT went in the**
14 **elevator until the time you told Maureen to call the**
15 **hospital, about how long was that?**
16 A Twenty, 30 minutes maybe. A short period of
17 time. We actually called the paramedics, and they
18 determined the hospital.
19 **Q Looking back on it, would you change anything**
20 **with regards to the treatment of Patient TTT?**
21 A No, I wouldn't, because my undergrad
22 education, I was a nurse, ICU nurse and very basically
23 had to run emergencies, codes, and so forth. And then
24 when I went to medical school in anesthesia and
25 residency, I had to be available for this type of a

1 situation, and my evaluation, based on my experience of
2 thousands of cases that I've discharged from the surgery
3 center or taken care of in a hospital, she was needing to
4 go to the hospital because the daughter was there. There
5 was no other -- nobody to help her, you know, take care
6 of.
7 She was hypovolemic and she needed to go to
8 the hospital, which she did. They gave her IV fluids. I
9 called the hospital and was told by the emergency room
10 doctor that her blood pressure was 98 over 65, and she
11 was stable. And they had given her IV fluids, and that's
12 all I really know about that she was taken care of. I
13 would never let a patient be abandoned or neglected if I
14 I'm present. And in all of the years of anesthesia, I
15 had no malpractice cases in pain management or anesthesia
16 or adverse outcomes.
17 HEARING OFFICER WOODMAN: What was the last
18 thing you said?
19 THE WITNESS: Or adverse outcomes. Those are
20 anesthesia. Yeah.
21 HEARING OFFICER WOODMAN: Thank you.
22 **Q (BY MR. WHITE:) Do you have any malpractice**
23 **suits against you right now?**
24 A I'm not aware of --
25 MR. FLANGAS: I'll object. Relevancy.

1 THE WITNESS: Yeah.
2 MR. WHITE: Well, she just opened the door to
3 that. She said --
4 MR. FLANGAS: I just object. She --
5 THE WITNESS: No. I said anesthesia or pain
6 management.
7 MR. FLANGAS: She has --
8 MR. WHITE: I'm asking that. Malpractice
9 suits --
10 THE COURT REPORTER: One at a time.
11 HEARING OFFICER WOODMAN: Hold on. Hold on.
12 Let's clarify where we are. You made a statement about
13 the fact that you haven't been sued for malpractice;
14 correct?
15 THE WITNESS: Yes.
16 HEARING OFFICER WOODMAN: And so you asked a
17 follow-up question about pending malpractice suits. And
18 you have an objection to the relevance?
19 MR. FLANGAS: Well, now that you phrase it
20 that way, I guess my objection doesn't, you know, is not
21 really valid anymore.
22 HEARING OFFICER WOODMAN: Well --
23 MR. FLANGAS: But you know what? I do want
24 some type of foundation because those are -- I believe
25 Maryanne was taking about cases prior to Patient TTT.

1 THE WITNESS: Oh, absolutely.
2 MR. FLANGAS: And then so now there's, as I
3 guess you know, there's cases now following Patient TTT,
4 you know, and so that's what I'm objecting to relevancy
5 on because it's afterwards not before this one patient.
6 HEARING OFFICER WOODMAN: Do you want to
7 clarify?
8 MR. WHITE: Yes.
9 HEARING OFFICER WOODMAN: Go ahead.
10 **Q (BY MR. WHITE:) Okay. So before Patient**
11 **TTT, which happened in June of 2020, have you ever -- had**
12 **you ever been sued for malpractice for your anesthesia**
13 **practice?**
14 A No. No.
15 **Q Now, since June 2020 -- and you don't have to**
16 **tell me what they're about or anything like that. That's**
17 **okay. I don't want to know. I just would only be asking**
18 **stuff that would probably be public record at this point.**
19 **Do you have pending lawsuits against you for your**
20 **anesthesia practice? And are they formal practice?**
21 A I'm told that I have some complaints about
22 patient cases that were at Vida Spa, and I believe that
23 some of them were from the fact that they were told by me
24 at the spa that they could come back and get redone, and
25 then they closed the spa, so they said: Oh, well, it's,

1 you know, a complaint. And that's all I know about.

2 **Q Okay. So you're not sure if it's for**

3 **malpractice or not?**

4 A No.

5 **Q I asked you this question a little bit**

6 **earlier, a different phrase, but I'm going to ask it now**

7 **a different way. Can you name all of the medical**

8 **directors of Vida Spa during the one year you worked**

9 **there?**

10 A I just have the names of the ones that I knew

11 that I was in contact with. Salvador Borromeo, M.D.,

12 Charmagne Poyo, I guess is her last name, M.D., Evelyn

13 Figeuroa-Rodriguez, nurse practitioner. Kusmal -- I

14 don't know his last name. Mentor. Something like that.

15 He's an M.D. from East India, but --

16 **Q What's his name?**

17 A Kusmal was his first name. That's the only

18 name he kind of gave me.

19 **Q He's an M.D.?**

20 A He's an M.D. from East India, yeah. And he

21 was -- he started -- he came up to me in June just before

22 I left and introduced himself. I didn't have any other

23 contact with him.

24 **Q And that's the fourth. That's about it?**

25 A That's it that I know of.

1 **Q And you said -- I know Dr. Borromeo is an**
2 **M.D. Charmagne who? Something? And she's a?**
3 A Independent nurse practitioner. They
4 function as M.D.'s in most ways.
5 **Q Okay. Dr. Phillips, in the approximately one**
6 **year that you worked at Vida Spa, did it ever occur to**
7 **you to check to see if that facility had a permit to do**
8 **general anesthesia?**
9 A I was told that they were credentialed for
10 everything they were doing and --
11 **Q Who told you that?**
12 A Just Sal. And that they had been in business
13 for five years. Dr. Costa and Washington and Borromeo,
14 that's basically -- and the other surgeons, it was
15 multiple surgeons and doctors that were introduced to me
16 that they were going to be working there.
17 **Q So you were just taking their word for it?**
18 A Yes.
19 **Q If you know, what is a major exam? What's**
20 **considered a major exam for a medical doctor?**
21 A As far as education?
22 **Q Yeah.**
23 A USLME, FLEX.
24 THE COURT REPORTER: I'm sorry?
25 THE WITNESS: It's United States Medical

1 Licensing Exam. That's what it stands for.

2 **Q (BY MR. WHITE:) What was the other one you**

3 **said?**

4 A FLEX, which is Federation Licensing Exam,

5 which is the one I took actually. It's harder than the

6 other one.

7 **Q When did you take FLEX?**

8 A In '88.

9 **Q Is that the last major exam you've taken?**

10 A No. When I took PACE in California, I took

11 part of the USLME cold in their program -- it's internal

12 medicine and clinical medicine -- and passed it.

13 **Q And that was part of PACE in California?**

14 A Yes. Yes.

15 **Q And when you say "in California," PACE is in**

16 **San Diego?**

17 A Right.

18 **Q But you mean it was part of something that**

19 **the California Board of Medicine had you do?**

20 A Yes, for pain management specifically. That

21 was at the time that there was an issue with the

22 pharmacy.

23 MR. FLANGAS: Objection. It's nonresponsive

24 to the question.

25 HEARING OFFICER WOODMAN: Sustained.

1 **Q (BY MR. WHITE:) Do you remember when you**
2 **took that, the part of the USMLE for California's Medical**
3 **Board, what year?**
4 A The PACE program? In 2009.
5 **Q You may have mentioned this before, but I**
6 **just want to ask you this question. Have you ever worked**
7 **in a hospital setting as an anesthesiologist?**
8 A Oh, absolutely at USC, L.A. County
9 Hospital -- I was a resident there -- Ed Norris Cancer
10 Center, and the University Hospital, which are the three
11 hospitals that are UCLA and USC for residents, and then I
12 was hired on as staff anesthesia there for a year, and
13 then I gave my resignation without any problems and went
14 and did a pain fellowship at Loma Linda University
15 because that was the nearest one available that was
16 accredited.
17 **Q So it was residency when you were working at**
18 **the University Hospital, and then you did your fellowship**
19 **in a different area?**
20 A Yes, but I was staff anesthesia hired on as
21 full staff for a year after I finished residency there.
22 **Q Had you ever worked in a setting as an**
23 **anesthesiologist, whether it be hospital or an approved**
24 **surgical center where you were told and you had no doubt**
25 **that they were licensed to do anesthesia in that**

1 **facility?**

2 A I worked in Nevada frequently in multiple

3 hospitals because anesthesiologists start with a group

4 and they're assigned to hospitals. I never ever had to

5 ask about the accreditation of any surgical facility or

6 hospital that I was assigned to.

7 **Q But those weren't med spas, right?**

8 A No. This was the first time I had ever dealt

9 with a medi spa or alleged medi spa.

10 **Q When you were doing -- actually, let me**

11 **rephrase that. When you were working at Vida Spa for**

12 **that year, June of 2020 to June of 2021, you held a**

13 **license to practice medicine, right?**

14 A Correct.

15 **Q And you did some propofol administrations or**

16 **at least did the testing?**

17 A Yes. And many aesthetic procedures: Botox,

18 fillers, PRP, which I took all of the classes at NIMA:

19 The National Institute of Medical Aesthetics.

20 **Q NIMA?**

21 A In fact, I was primarily doing that, and then

22 I was asked to train for the liposuction procedure. I

23 became familiar with Botox procedures.

24 MR. FLANGAS: Objection. It's nonresponsive

25 to the question.

1 HEARING OFFICER WOODMAN: Sustained.
2 THE WITNESS: Okay.
3 MR. FLANGAS: Just answer his questions.
4 THE WITNESS: Okay.
5 **Q (BY MR. WHITE:) We've already established**
6 **that you supervised the nurses that were doing the**
7 **anesthesia?**
8 A Uh-huh.
9 MR. FLANGAS: Is that a yes?
10 THE WITNESS: Yes.
11 MR. FLANGAS: You have to say yes or no.
12 HEARING OFFICER WOODMAN: Yeah, it helps our
13 reporter a lot.
14 THE WITNESS: Sorry.
15 **Q (BY MR. WHITE:) And if you know, did you**
16 **report this when you renewed your license? Sorry. Let**
17 **me specify that. Did you report that anesthesia was**
18 **being used at that facility on your 2021 renewal pursuant**
19 **to NRS 630.30665 like we were talking about this morning?**
20 A I was already suspended at the time that
21 report was due. I didn't get one.
22 MR. FLANGAS: I'm just going to object to
23 foundation. Why don't you ask whether she even sent a
24 renewal to begin with.
25 **Q (BY MR. WHITE:) Did you send in a renewal?**

1 A I didn't send in anything.

2 **Q Okay. So did you not renew your license in**

3 **June of 2021?**

4 A That's correct.

5 **Q Indulgence, please. Dr. Phillips, I might**

6 **have asked you this, but I just want to be clear for the**

7 **record. You only did lipos for the liposuctions for the**

8 **last three months that you were working there?**

9 A Yeah, that I was not assisted by a surgeon.

10 **Q So would that have been -- you left in June.**

11 **So we go back to so you didn't do any liposuctions the**

12 **first three months: January, February, March of 2021?**

13 A I was assisting with some. That's all.

14 MR. FLANGAS: Assisting who? I can't hear

15 you.

16 THE WITNESS: The other surgeons that were

17 there.

18 MR. FLANGAS: The plastic surgeon?

19 THE WITNESS: Yeah. Well, there was others,

20 too. I don't know all of their names.

21 **Q (BY MR. WHITE:) So when you were assisting,**

22 **were you not hands-on? You were watching?**

23 A Yeah, mostly, but some hands-on.

24 MR. FLANGAS: I think she testified earlier

25 training.

1 MR. WHITE: At this time, I'd like to play a
2 video. It already been marked and admitted. It's
3 Exhibit 95. And are we putting it up on here?
4 MS. BYRD: Yeah.
5 MR. FLANGAS: Can we go off the record until
6 we get the video up?
7 HEARING OFFICER WOODMAN: Yeah.
8 (WHEREUPON, an off-the-record discussion ensued.)
9 HEARING OFFICER WOODMAN: Back on the record,
10 and it is Exhibit 95.
11 (Video played.)
12 **Q (BY MR. WHITE:) So, Dr. Phillips, would you**
13 **like to change your answer now as to when you did**
14 **liposuctions?**
15 A This was in reference to other people that
16 were doing liposuctions, the surgeons that were there.
17 And the procedures that I was actually doing were the
18 ones that I just talked about, and Gisselle --
19 **Q Did we hear Gisselle Platfoot in that video?**
20 A Yeah, made me talk about the liposuction even
21 though I wasn't really doing anything but training with
22 the surgeons at that time.
23 **Q So it's still your testimony that you didn't**
24 **do any liposuctions before --**
25 A I didn't do any --

1 **Q -- April?**
2 A Independently without another physician.
3 **Q So if we have a video that shows you next to**
4 **another doctor, that's when you were training?**
5 A Yes.
6 **Q And if we don't see another doctor in there,**
7 **probably you weren't training at that point?**
8 A Depends on what -- yeah, but some of them,
9 yeah.
10 MR. FLANGAS: Just for the record, she's --
11 Okay. I don't know. I guess just for the record, she
12 said two things. She said she stopped -- she started
13 doing, she trained with Dr. Serrano for six months.
14 Dr. Serrano left in December of 2020. That's when she
15 started. And then she also said what, you know, the last
16 three months, she was doing lipo on her own.
17 MR. WHITE: Thank you for that.
18 MR. FLANGAS: Sorry. I didn't get the
19 foundation of when that video was.
20 MR. WHITE: Oh, it says up there January 6th.
21 It's a Facebook --
22 MR. FLANGAS: Oh, January 6th.
23 MR. WHITE: January 6th, and that they did
24 reference January 15th in the video as having --
25 MR. FLANGAS: A special.

1 MR. WHITE: -- a special. You could get the
2 specials until then or something.
3 MR. FLANGAS: Got it.
4 MR. WHITE: And I assume this is 2021 because
5 she worked from June to June, 2020 to 2021.
6 THE WITNESS: Yeah, but she had me advertise
7 for the other people that were there.
8 **Q (BY MR. WHITE:) Okay. So what your attorney**
9 **just said kind of brought up another question. So you**
10 **said Dr. Serrano left and you were training under him.**
11 **He left at the end of 2020?**
12 A Yeah, I believe so. Yeah. I don't remember.
13 MR. FLANGAS: You believe so?
14 **Q (BY MR. WHITE:) And then you didn't do any?**
15 A I don't remember the exact date he left.
16 **Q Okay. I don't want to talk over each other,**
17 **but roughly around the end of 2020?**
18 A Yeah, our New Year's. Right after New
19 Year's. The holidays.
20 **Q That's the end of 2020?**
21 A Yeah.
22 **Q Okay. So --**
23 MR. FLANGAS: Well, she said right after New
24 Year's, so it was --
25 **Q (BY MR. WHITE:) Okay. All right. And then**

1 **you -- Did you train under somebody else for the next**
2 **three months?**
3 A There was other surgeons there that I would
4 assist.
5 **Q So you must remember who they are, right?**
6 A I don't know all of their names. I just
7 remember one was kind of a slight Indian guy. I don't
8 know. Gisselle had some, I don't know, procedure done
9 with him or something. I don't know how she knew him,
10 but she had -- and then there was a lady surgeon. She
11 ended up going to the class that I went to, but she was a
12 full Board certified surgeon doing breast surgeries for
13 cancer at one of the facilities. And then there was a
14 younger lady that I believe was a resident that had
15 recently graduated.
16 **Q But you can't remember any of their names for**
17 **those three months?**
18 A I didn't because I was introduced, you know,
19 just briefly and then I left. I didn't work with any of
20 them except for here and there on certain procedures
21 because I was doing the PRP procedures, the O shots and
22 the P shots and the Botox and fillers that I certified
23 for at NIMA.
24 **Q Okay. All right.**
25 MR. FLANGAS: You know, in general, I'm just

1 going to --

2 MR. WHITE: Well, I don't --

3 MR. FLANGAS: -- object.

4 MR. WHITE: You're going to object now?

5 MR. FLANGAS: No, I'm not objecting, but I've

6 been letting you go. But in general, I'm going to object

7 on relevancy on all of this lipo and Botox and all of

8 these different things because it's not -- I don't

9 understand the relevancy with the causes of action on the

10 counts. So, I mean, I've been letting it go because it's

11 all of part of the same thing, but --

12 HEARING OFFICER WOODMAN: And I understand.

13 Pretty sure I understand where you're coming from. I

14 guess I will just say this. At the end of the day, it's

15 up to me to figure out which of these facts that are in

16 pertain to the compliant -- the Second Amended Complaint

17 is clearly the controlling document -- and then

18 ultimately, whether the Board agrees with my assessment

19 or not.

20 MR. WHITE: Well, I will say this. I'd say

21 it's relevant as to her credibility. I know she's my

22 witness right now. I am asking open-ended questions.

23 However, I'm still allowed to explore her credibility.

24 And I think it is relevant.

25 HEARING OFFICER WOODMAN: And of course we

1 all know the rule. Credibility is always relevant, and I
2 know where you're coming from because the point here is
3 whether she was actually doing those procedures at the
4 time as opposed to just advertising. Is the other woman
5 standing next to you, is that Gisselle Platfoot?
6 THE WITNESS: No, that was Danielle Leeds.
7 She did a lot of the aesthetic procedures. She's a
8 registered nurse.
9 HEARING OFFICER WOODMAN: So is Gisselle
10 Platfoot the other voice that would come in?
11 THE WITNESS: The other voice, yes.
12 HEARING OFFICER WOODMAN: So she has bit of
13 an accent of some sort?
14 THE WITNESS: Very.
15 HEARING OFFICER WOODMAN: Okay.
16 **Q (BY MR. WHITE:) Okay. Well, I have nothing**
17 **at this point. No more at this point. So I don't have**
18 **any -- I don't think we have any -- looking at my master**
19 **list here, I don't think I have anything to get in with**
20 **Dr. Phillips. Hold on a second.**
21 **Dr. Phillips, are you aware you actually did**
22 **renew your license in 2021?**
23 A I was in consulting with Lynn Begs, former
24 attorney, with your Board, and she said I was eligible
25 but then she said I had to, you know, complete the

1 requirements or whatever. And so I was in doubt of, you
2 know, not knowing whether I could renew or not. She told
3 me to send the fees. And I never did receive a renewal.
4 The only one that I have expired June '21.
5 MR. WHITE: Let's see here. We can get this
6 printed up during lunch too. You know, I'll finish it up
7 after lunch. You want to take a break for now and go off
8 the record?
9 MR. FLANGAS: I think I'm just going to press
10 forward and maybe try to get done. I mean, you guys tell
11 me. I can wait or I could press forward and get done by
12 before 1:15, and then we could break for lunch for 2:30
13 or we could go have lunch now and I could start.
14 HEARING OFFICER WOODMAN: It's a quarter
15 after 12:00. I think we probably should take lunch now.
16 (Recess.)
17 HEARING OFFICER WOODMAN: We are back on the
18 record in the case regarding Dr. Phillips. Mr. White's
19 going to have a few more questions of his direct
20 examination of Dr. Phillips.
21 Before we do that, we just want to clarify
22 what we have dealt with off the record which is that
23 after this hearing is over, both attorneys will have
24 until Friday, January 13th to submit I'm going to call it
25 briefs, but as we talked about off the record, something

1 very, very basic bullet points, whatever you want to say
2 about let's see our issue was. What was our issue?
3 MR. FLANGAS: Whether CV depositions and
4 publications, whether that's a necessary requirement for
5 an expert to be disclosed and notification for
6 administrative proceeding.
7 HEARING OFFICER WOODMAN: Right. Because
8 Dr. McCormack testified yesterday, and there was a CV
9 produced during her testimony at your inquiry,
10 Mr. Flangas, but you had not received anything in
11 advance.
12 MR. FLANGAS: Right.
13 HEARING OFFICER WOODMAN: And so whether a
14 production of a CV in advance is a prerequisite to
15 calling an expert.
16 MR. FLANGAS: Yeah.
17 MR. WHITE: I would think there's also a
18 little bit of a nuance -- if I could speak up for a
19 second -- there might be a nuance as to whether the CV
20 comes in itself because that was disclosed late, right?
21 And you have some things that were late disclosures also
22 after the time and the order.
23 So I guess the nuance is whether the CV
24 doesn't come in but the person still gets to testify
25 because the witness was disclosed. I don't think it

1 disqualifies the witness completely from testifying or
2 their testimony should be stricken because of the CV
3 might have been late. The CV may not be able to come in,
4 is what my point is. There's the nuance there.
5 HEARING OFFICER WOODMAN: And any briefing,
6 any reference to authority on all of the above is
7 welcome. And again, it's the holidays, and I'm not
8 expecting people to, as I said, write eloquent briefing.
9 Just give me the guts of whatever authority.
10 MR. FLANGAS: Just the rationale, whatever,
11 statute or case law.
12 HEARING OFFICER WOODMAN: Exactly.
13 MR. FLANGAS: And it comes down to, I mean,
14 to pin down the notification, you know, the purpose
15 behind the NRCP Rule and the notification so I can look
16 this person up before coming.
17 MR. WHITE: But we're actually going off of
18 like prehearing conference statements what we both
19 produced, right, at a certain point. And you've done, I
20 think, five of them. I've done three supplements and
21 everything. That is under Nevada Administrative Code
22 630465.
23 That talks about what's contained in the
24 prehearing conference statement, and then it talks about
25 witnesses that aren't disclosed after a certain point are

1 not allowed to testify unless there are rebuttal witness
2 or there's good cause for the late disclosure. But it
3 doesn't really -- I looked again. I can't see anything
4 as far as curriculum vitas, but I, you know, obviously
5 there's a nuance of it being evidence that was disclosed
6 late too.
7 MR. FLANGAS: Does it talk about expert
8 witnesses at all or --
9 MR. WHITE: No, it just says witnesses.
10 MR. FLANGAS: Okay.
11 HEARING OFFICER WOODMAN: But you might find
12 some --
13 MR. WHITE: I'll keep looking. Yeah, I'll
14 keep looking, do a brief.
15 HEARING OFFICER WOODMAN: There could be
16 something in case law that's not in the statute or the
17 code.
18 MR. FLANGAS: Right.
19 HEARING OFFICER WOODMAN: All right. And
20 something else that flipped the mind and then checked
21 out. I'll bring that up the next time it pops back in.
22 But with that, Mr. White, why don't you go
23 ahead and finish up your questioning of Dr. Phillips, and
24 then her counsel will have the opportunity to ask.
25 Q (BY MR. WHITE:) I think I ended off by

1 **asking a question about whether, Dr. Phillips, when you**
2 **renewed your license in 2021, if you reported that there**
3 **were -- that sedation was going on in that facility,**
4 **which is not accredited. And what was your answer to**
5 **that?**
6 MR. FLANGAS: Just for the record, she never
7 testified that she actually sent in a renewal. I think
8 she testified she paid a fee. I mean, I don't know.
9 Just --
10 **Q (BY MR. WHITE:) Okay. Did you renew your**
11 **license in 2021?**
12 A I was told that I wouldn't be able to at that
13 time because I was trying to get off of the probation
14 requirement and then Lynn Begs, I conferred with her and
15 she goes: No, you can send in your renewal, and so I
16 sent in the fee. I never received the renewal, but I was
17 told that I would eventually be eligible for it. But
18 there was no other forms that she said to send in.
19 **Q So but you do know at the bottom of your**
20 **renewal, you attest to everything being correct in there;**
21 **correct? You know that, right?**
22 A Yeah, because I had to have, you know, it
23 asked you the questions, but they're kind of like have
24 you done your CMEs and this other thing.
25 **Q Well, there's quite a few more questions than**

1 **that, isn't there?**
2 A I don't remember.
3 MR. FLANGAS: Hang on. Is there a renewal?
4 MR. WHITE: She did renew.
5 MR. FLANGAS: She sent in a form?
6 MR. WHITE: I don't know how it's done right
7 now. I think we recently got on so that it's done
8 through the website actually, I think, now. There's
9 actually a portal for our licensees to go in and renew
10 online, I think. And that's been, I think, just since
11 the last renewal. I think -- I believe that happened in
12 2021.
13 MR. FLANGAS: So okay.
14 MR. WHITE: Don't quote me on that. I'm not
15 sure.
16 MR. FLANGAS: Okay. But she remembers paying
17 a fee, but she doesn't remember sending a form in or --
18 THE WITNESS: No, no.
19 MR. FLANGAS: -- any application. Do you
20 remember an application?
21 THE WITNESS: I think Ms. Begs, you know,
22 said this is what you do and it was all online. I don't
23 remember, but I never got a license.
24 **Q (BY MR. WHITE:) I don't want to ask you what**
25 **you and Ms. Begs talked about because she was your**

1 **attorney at that point too, so there was some**
2 **attorney-client privilege there. But were you sitting in**
3 **the room with her or something?**
4 A Only over the phone. I've only seen her at
5 other places when she was my attorney.
6 **Q Okay. And again, we're not saying what was**
7 **talked about, but did you call for assistance for**
8 **renewal?**
9 A Yes, because I had her engaged for the
10 pharmacy board because I was trying to get my controlled
11 substance back so I could do anesthesia at a hospital
12 which is impossible if you don't have a control and which
13 is the medical board requested me to do. And so she said
14 that because this came up with the pharmacy -- I mean the
15 medical board -- she would handle that as well. And I
16 paid her fees for the pharmacy board and the medical
17 board.
18 **Q And you had mentioned probation before. Were**
19 **you mentioning the probation that you were on here?**
20 A The original one that we were talking about.
21 **Q So the probation that you were on. Sorry. I**
22 **don't want to talk over you. So the probation that you**
23 **were on from 2019?**
24 A Yeah.
25 **Q So are you aware when you're on probation,**

1 **you're still an active licensee?**
2 A Yes.
3 **Q So an active licensee, it's your**
4 **responsibility to renew if you're going to do that,**
5 **right?**
6 A Right. And that was the question at the
7 time: Whether I could or couldn't and whether I was
8 going to. I discussed that with her.
9 **Q So when you went through the questioning**
10 **during renewal in 2021, did you see a question there**
11 **about saying that I will report any sedation that's going**
12 **on?**
13 A I don't remember ever saying that.
14 MR. FLANGAS: I'm just going to object. She
15 never said she did any renewal. So when you say when you
16 were going through the form, she never testified she
17 actually --
18 **Q (BY MR. WHITE:) Did you go through the form?**
19 A I just went online and clicked on something.
20 I never had a form.
21 **Q Is there a point where when you're going**
22 **through online -- Did you go from start to finish and**
23 **finish renewing as far as you were concerned?**
24 A I don't remember exactly. I didn't think so.
25 **Q Did you get to a point where there was a**

1 **drop-down question that you had to attest to whether you**
2 **reported sedation going on as a holder of a license that**
3 **there was sedation going on in your office or any office?**
4 **Because that's how it's written in the statute.**
5 A I don't know.
6 MR. FLANGAS: I'll object. Hang on a second.
7 I'll object. Calls for speculation. She said she
8 doesn't remember and also, the statute.
9 MR. WHITE: That's not calling for
10 speculation if she doesn't remember. She's doing the
11 licensing. She's telling me that she clicked through
12 things, Mr. Flangas, and it's not speculation that she
13 can tell me whether or not she saw that. That's the
14 question.
15 HEARING OFFICER WOODMAN: So as far as the
16 ruling goes -- in case anybody cares -- Dr. Phillips, did
17 you, first of all, did you understand his question? Do
18 you understand what he's asking you?
19 THE WITNESS: I think so.
20 HEARING OFFICER WOODMAN: Do you remember
21 whether you reached that point in the online license
22 renewal process where you reached that drop-down box that
23 asked you whether you had --
24 MR. WHITE: Performed or performed sedation
25 or it was performed in the office?

1 THE WITNESS: No.
2 HEARING OFFICER WOODMAN: What's been
3 referred to as the honor code, you know, the honor system
4 in reporting. You don't remember right now whether you
5 got to that point?
6 THE WITNESS: No, I don't.
7 HEARING OFFICER WOODMAN: Okay.
8 **Q (BY MR. WHITE:) And as the holder of a**
9 **license, do you also know that -- Well, let me put some**
10 **foundation to that. Would you consider a syncopal event**
11 **at that facility, what's called a sentinel event?**
12 A I'm not sure on that. It would definitely be
13 considered a syncopal event, but I don't know about
14 sentinel.
15 **Q Okay. So I guess my next question would be**
16 **answered. There's a 14-day requirement to report a**
17 **sentinel event. So did you report a sentinel event at**
18 **Vida Spa after June 27th, 2020?**
19 A No.
20 **Q Within 14 days? Okay. That's all I have**
21 **right now. Thank you.**
22 HEARING OFFICER WOODMAN: Thank you.
23 Mr. Flangas, whenever you're ready.
24 MR. FLANGAS: Okay. Thank you. Real quick,
25 Don, when is the renewal deadline, if you know?

1 MR. WHITE: It's usually I think the last day
2 of June or, I guess, midnight July 1st. Something like
3 that. Yeah. Of each -- every other -- it's every odd
4 year, so 2019, 2021, 2023.
5
6 CROSS-EXAMINATION
7 BY MR. FLANGAS:
8 **Q Okay. Let's start out with the renewal. You**
9 **don't remember -- You remember sending the fee; is that**
10 **correct?**
11 A Yeah.
12 **Q You don't remember sending in any forms or**
13 **anything like that; correct?**
14 A Correct.
15 **Q You testified you don't believe you actually**
16 **finished the renewal process; is that correct?**
17 A That is correct.
18 **Q You also testified that there were issues**
19 **that because of your previous order in the three-year**
20 **period that there was issues with that and maybe**
21 **renewing; is that correct?**
22 A Yes.
23 **Q That's what you just said?**
24 A Yeah.
25 **Q That was a concern? And you were also**

1 **suspended -- in your memory, you were suspended in June**
2 **of 2021?**
3 A Yes, before the last date.
4 **Q You were suspended before the last date for**
5 **renewal from your memory?**
6 A Yes.
7 **Q Were all of those factors in why you don't**
8 **believe you actually renewed?**
9 A Yes.
10 **Q Okay. And you don't remember any drop-down**
11 **form talking about sedation?**
12 A No.
13 **Q Okay. During the one year that you were**
14 **there, there was a portion of time that you acted as an**
15 **anesthesiologist and oversaw the propofol, the nurse**
16 **doing the propofol; is that correct?**
17 A Yes.
18 **Q Long and short of it, was propofol given to**
19 **every patient who did lipo?**
20 A No.
21 **Q How often was propofol actually given? I**
22 **mean, if you could estimate maybe out of ten patients.**
23 A Half maybe.
24 **Q Half of them? Okay. And the R.N., who was**
25 **the R.N. who was working the propofol machine that did**

1 **the infusion?**

2 A The R.N. that was giving --

3 MR. WHITE: Objection, vague.

4 **Q (BY MR. FLANGAS:) What was the name? Was**

5 **there several R.N.'s doing it?**

6 A Oh, yes, several.

7 **Q Okay. For Patient TTT, who was the patient**

8 **name of the R.N., if you remember?**

9 A Maureen.

10 **Q Maureen?**

11 A Yes.

12 **Q MR. WHITE: Sorry. Can we get a last name,**

13 **too, if you know?**

14 THE WITNESS: I think it's Ryan. I'm not

15 sure.

16 MR. FLANGAS: I think it starts with an "R"

17 for sure.

18 MR. WHITE: Thank you.

19 **Q (BY MR. FLANGAS:) Those R.N.'s, are they**

20 **certified to operate that machine?**

21 A Yes.

22 **Q And could these R.N.'s who are certified**

23 **operate the machines? Could they operate the machines**

24 **without you being there?**

25 A Yes.

1 **Q They're legally able to do that; correct?**
2 A Yes.
3 **Q So you were there as extra safety?**
4 A Correct.
5 **Q You would perform a test dose to make sure**
6 **they weren't allergic?**
7 A Correct.
8 **Q Okay. And then you would just make sure**
9 **there was no complications or any type of distress?**
10 A Correct.
11 **Q Do you know if there were times when they --**
12 **when R.N.'s, during the one-year period you were there,**
13 **that R.N.'s would administer propofol and you weren't**
14 **there?**
15 A I'm sure there was. I wasn't there all the
16 time.
17 **Q Okay. Do you know that there were other lipo**
18 **surgeries --**
19 A Yes.
20 **Q -- let me finish -- being done when you**
21 **weren't there?**
22 A Yes.
23 MR. WHITE: Objection, no personal knowledge.
24 If she wasn't there, she wasn't there.
25 MR. FLANGAS: Well --

1 THE WITNESS: Well, I was told that they were
2 scheduled.
3 **Q (BY MR. FLANGAS:) Okay. You knew that there**
4 **were other --**
5 A Providers.
6 **Q Hang on. You knew that there were lipo**
7 **procedures being performed with you not there; correct?**
8 A Correct.
9 **Q And is it also true that you knew that the**
10 **R.N.'s would give propofol to them with you not there; is**
11 **that correct?**
12 A Correct.
13 **Q What is --**
14 MR. WHITE: I'm also going to object to
15 relevance on that. We're not here on the R.N.'s.
16 Different agency.
17 HEARING OFFICER WOODMAN: Do you have a
18 response to the objection?
19 MR. FLANGAS: Well, I think it's all relevant
20 that a nurse on their own standalone can administer it
21 without her there, you know. The one case that we're
22 dealing with Ms. (Name deleted), and she was there at
23 that time, but it shows that the nurse is qualified to do
24 it on her own, and she's in a standby type of overseeing
25 capacity.

1 MR. WHITE: And if I can make just one quick
2 counter to that. Is that okay?
3 HEARING OFFICER WOODMAN: Go ahead.
4 MR. WHITE: We're here on Dr. Phillips as the
5 respondent to the Medical Board's inquiry and complaint.
6 How Gisselle ran that business, Ms. Platfoot ran that
7 business and whether she used R.N.'s when Dr. Phillips
8 wasn't there to do propofol is completely irrelevant to
9 what we have sitting in front of us right now.
10 HEARING OFFICER WOODMAN: I'm going to
11 overrule the objection. For what I've been hearing
12 yesterday and today, I'm interested in hearing it. I
13 think it matters. I think it's part of the puzzle.
14 **Q (BY MR. FLANGAS:) Okay. So now let's talk**
15 **about BHS. What company is that?**
16 A Bio --
17 THE REPORTER: I'm sorry?
18 MR. FLANGAS: You've got to speak up a little
19 bit.
20 **Q (BY MR. FLANGAS:) I have it. Let's see.**
21 **Bionutraceutical. C-E-U-T-I-C-A-L Health Solution. And**
22 **you were the medical director for that?**
23 A Yes.
24 **Q Were you the medical director for that before**
25 **you started also acting as an -- working as an**

1 **independent contractor for Gisselle?**
2 A Yes.
3 **Q Did you ask permission or did you run it by**
4 **Dr. Allen about working for Gisselle?**
5 A Yes.
6 **Q Okay. Were you ever the medical director for**
7 **Vida Spas?**
8 A No.
9 MR. WHITE: Objection, asked and answered.
10 HEARING OFFICER WOODMAN: Overruled.
11 **Q (BY MR. FLANGAS:) Okay. Let's go to the**
12 **issues on prescriptions. Based on the orders, were you**
13 **allowed to prescribe medicine to patients?**
14 A Yes.
15 **Q You just could not prescribe narcotics?**
16 A Correct.
17 **Q Okay. According to all of the orders that**
18 **you're allowed to administer propofol; correct?**
19 A Correct.
20 **Q Okay. And you were allowed to administer**
21 **narcotics only in anesthesia type of situation?**
22 A Correct.
23 **Q Okay. You're allowed to do lipo?**
24 A Yes.
25 **Q You're allowed to do anything else, just not**

1 **the narcotic prescribe narcotics --**

2 A Yes.

3 **Q -- for pain; correct?**

4 A Correct.

5 **Q So you saw the pictures of the prescription**

6 **bottles that -- were they in your office?**

7 A I don't recall.

8 MR. WHITE: Objection, vague. Maybe we

9 should go to the exhibit.

10 **Q (BY MR. FLANGAS:) Do you remember seeing**

11 **pictures of the prescription bottles?**

12 A Yes.

13 **Q Anyway, those were prescriptions you wrote;**

14 **correct?**

15 A Yes.

16 **Q Were any of those narcotics?**

17 A No.

18 **Q Next topic. You've already testified Vida**

19 **Spa was the custodian of records for all of the medical**

20 **records; correct?**

21 A Correct.

22 **Q You worked there as an independent**

23 **contractor?**

24 A Yes.

25 **Q There were other independent contractors**

1 **working for Vida Spa?**

2 A Yes.

3 **Q The medical forms and waivers and releases**

4 **and procedure forms and stuff like that, who created all**

5 **of that?**

6 A The facility.

7 **Q Okay. So is that Vida Spa? They were Vida**

8 **Spa's forms?**

9 A Vida Spa. Yeah.

10 **Q And you just worked off those forms; correct?**

11 A Correct.

12 **Q The sedation logs, who created those sedation**

13 **logs?**

14 A The Vida Spa. Yeah.

15 **Q Okay. And as a matter of fact, Vida Spa,**

16 **they changed during the one-year period you were there,**

17 **they changed the forms like two times?**

18 A Yes.

19 **Q From what you remember?**

20 A Yes.

21 **Q And in the beginning, there were forms where**

22 **you would put the propofol usage in a certain -- in a**

23 **different section than the sedation log?**

24 A Yes.

25 **Q And then when they changed it, they changed**

1 **it where you would put propofol usage and the dosage and**
2 **all of that in the sedation log; is that correct?**
3 A Correct. Yes.
4 **Q Okay. Tell the Hearing Master when you went**
5 **to the procedure room to do it, was the sedation log and**
6 **all of the medical records there?**
7 A Yes.
8 **Q The sedation log was there too?**
9 A Yes.
10 **Q Okay. And when you were done, you made sure**
11 **everything was correct and accurate?**
12 A Yes.
13 **Q Okay. Did you know what they did with the**
14 **medical records?**
15 A No, I had no idea.
16 **Q Did you know what they did with the sedation**
17 **log?**
18 A They put them away.
19 **Q They just put them away?**
20 A In the facility.
21 **Q The sedation log documented what dosage and**
22 **the propofol was given to that patient, right?**
23 A Huh-uh. Yes.
24 **Q At any time when you were doing all of this,**
25 **did you ever think oh, well -- Okay. Strike that. Do**

1 **you even know why they created a sedation log that shows**
2 **the usage of the propofol that's on a different piece of**
3 **paper?**
4 A I think Gisselle thought she was supposed to
5 do that.
6 HEARING OFFICER WOODMAN: Sorry. Who thought
7 they were supposed to do that?
8 THE WITNESS: Gisselle.
9 MR. WHITE: Objection, calls for speculation.
10 THE WITNESS: I don't know.
11 **Q (BY MR. FLANGAS:) You don't know?**
12 A No.
13 **Q You have no clue?**
14 A That is right. I don't know.
15 **Q It's their form, right?**
16 A It's their forms and they kept them.
17 **Q Okay. When the patient got done, you had the**
18 **sedation log there. And there are other forms and you**
19 **just filled it out, right?**
20 A Right.
21 **Q And it was accurate, right?**
22 A Right.
23 **Q Okay. You already testified that when you**
24 **were there, I think you listed four medical directors**
25 **that were there the whole time during the time you were**

1 **there?**

2 A Yes.

3 **Q And you testified for your knowledge, there**

4 **was always -- you were always told or introduced to the**

5 **medical director and you thought there was always a**

6 **medical director there; correct?**

7 A Correct.

8 **Q And you mentioned their names?**

9 A Yes.

10 **Q Okay. Next topic. Patient TTT, that was**

11 **like your third or fourth patient that you just began**

12 **just got started working there, right?**

13 A Yes.

14 **Q Let's talk about this one-page medical form.**

15 **It's Bates stamped 2552. Do we know --**

16 MR. WHITE: It might be 102.

17 MR. FLANGAS: 102?

18 MR. WHITE: It might be 102. Yeah.

19 MR. FLANGAS: I just want to make sure.

20 HEARING OFFICER WOODMAN: What was the Bates

21 number?

22 MR. FLANGAS: It's 2552. 102.

23 MR. WHITE: Yeah, it's 102.

24 HEARING OFFICER WOODMAN: 2552.

25 MR. FLANGAS: Yeah. Exhibit 102, Bates

1 stamped 2552.

2 HEARING OFFICER WOODMAN: Oh, okay. I

3 recognize this from yesterday.

4 MR. SMITH: Also 123.

5 **Q (BY MR. FLANGAS:) In addition to the**

6 **sedation log, this is one of the medical documents that**

7 **gets filled out; correct?**

8 A Correct.

9 **Q And who fills all of this stuff out? Is that**

10 **the nurse?**

11 A Yes.

12 **Q Okay. You have a handwriting on here too;**

13 **correct?**

14 A Yes.

15 **Q Okay. And I want the last time period for**

16 **the vitals.**

17 HEARING OFFICER WOODMAN: Mr. Flangas,

18 forgive me for interrupting you. When you asked her who

19 fills all of this stuff out here, the nurse, can you

20 delineate that for the record, please?

21 **Q (BY MR. FLANGAS:) Okay. Yeah. The**

22 **handwritten -- the print handwritten?**

23 MR. WHITE: Why don't you ask the witness.

24 **Q (BY MR. FLANGAS:) Okay. Within the box --**

25 **well, I'm trying to describe it first and then I was**

1 **going to ask is that who is the handwriting.**
2 **Within the box, all of the boxes with all of**
3 **the numbers and the medication, dosage and route and**
4 **quantity all of that stuff, whose handwriting is that?**
5 A The nurse.
6 **Q Okay. You have a signature here where it**
7 **says "anesthesiologist". Is that your signature?**
8 A Yes.
9 **Q Okay. Why don't you say what your**
10 **handwriting is on here?**
11 A Here: My signature.
12 **Q Okay. So for the record, patient bled, plus,**
13 **plus, plus EBL equals 500 cc's, right? You wrote that**
14 **down?**
15 A Propofol infusion.
16 **Q You wrote down the propofol infusion at --**
17 A Times.
18 **Q -- times. And then you write anesthesia sent**
19 **patient to E.R. Did you write that?**
20 A Yes.
21 **Q All the way through to tolerated fairly**
22 **significant bleeding?**
23 A Yes.
24 **Q Okay. And then did you write up here on top:**
25 **At 4:30 p.m. talked to the E.R.?**

1 A Yes.

2 **Q Okay. Now your handwriting that you did**

3 **regarding the talk to the E.R. -- And you talked to the**

4 **E.R. at 4:30; is that correct?**

5 A Yes.

6 **Q And they said she's stable?**

7 A Yes, and that's --

8 **Q And her vitals were normal. Is that correct?**

9 A Yes. They said they were giving her fluid.

10 **Q And the last vitals written by the nurse, her**

11 **vitals were normal. Can you state it for the record?**

12 **113 over 67?**

13 A Pulse.

14 **Q Is that correct: 113 over 67?**

15 MR. WHITE: Object for personal knowledge.

16 We just established she didn't write that.

17 THE WITNESS: No, but that's --

18 MR. FLANGAS: It's a medical record.

19 MR. WHITE: But she said the nurse wrote

20 that.

21 THE WITNESS: Oh, yeah.

22 MR. WHITE: She can't attest to whether it

23 was right or not.

24 **Q (BY MR. FLANGAS:) Well, okay. You rely on**

25 **what the nurse writes down as to her pulse and everything**

else; correct?

A Yes.

Q Okay. Was she stable at the time --

A Yes.

Q -- that you checked her out?

A I checked her. Yes.

Q And you reviewed this and signed this; correct?

A Yes.

Q And at the time you signed it, they had that pulse and her blood pressure, right, and her respiratory, right?

A Right.

Q And that's all stable, right?

A Yes.

Q As a matter of fact, you heard the doctor testify yesterday, McClance?

MR. WHITE: McCormack.

Q (BY MR. FLANGAS:) And she said that that her pulse and heart rate and respiratory rate was all stable --

A Stable. Yes.

Q -- right?

A Correct.

Q Now, when you wrote down about the E.R. up on

1 **top and below, that's after you talked to the E.R.?**
2 A Yes.
3 **Q And so you added to it; is that correct?**
4 A Yes.
5 **Q That's after the patient left?**
6 A Yes.
7 **Q That's after you found -- you realized that**
8 **you know she was faint or -- right?**
9 A Yes. I felt she should go to the emergency
10 room.
11 **Q Was that the first -- Let me ask you this.**
12 **When you -- I know you testified that the R.N. was the**
13 **one in charge of releasing her.**
14 A Yes.
15 **Q But you were still there and you wouldn't**
16 **have let her be released if you thought there was an**
17 **issue?**
18 A Correct.
19 **Q Okay. She was alert?**
20 A Yes.
21 **Q Oriented?**
22 A Talking.
23 **Q Talking? Was there any signs of distress?**
24 A No, at that time.
25 **Q Okay. When was the first time there was any**

1 **sign of distress?**

2 A When she felt faint trying to get into the

3 car.

4 **Q And she was trying to get up?**

5 A Yes.

6 **Q Okay. And so the second you find out that**

7 **there's some type of distress after you evaluated her,**

8 **you decided to have the ambulance called; correct?**

9 A Correct.

10 **Q Tell me what's common practice or what's the**

11 **standard when you're releasing patients that how do you**

12 **check to see whether they're under distress or not? You**

13 **go by their --**

14 A Vital signs.

15 **Q -- vital signs?**

16 A Their oxygenation, their breathing and

17 whether they're throwing up, nauseated, whether they're

18 dizzy. And basically, you evaluate from that.

19 **Q Okay. None of those symptoms occurred --**

20 A No.

21 **Q -- with Patient TTT --**

22 A No.

23 **Q -- correct? Okay. During the year you were**

24 **there when, you know, you had patients, you would always**

25 **walk them out or, you know, you would release them when**

1 **their signs were stable?**

2 A Yeah, some of them. I mean, I didn't walk

3 all of them out.

4 **Q All right. So let me -- Next topic is**

5 **Exhibit K. I don't know why it's, you know, for the**

6 **record, it's the employee handbook, but then there's some**

7 **prescriptions afterwards and there's lots of other stuff**

8 **in Exhibit K. I don't think -- I think what I'm going to**

9 **do is talk about Exhibit K, Bates page numbers 103 to**

10 **109.**

11 HEARING OFFICER WOODMAN: 109, you said?

12 MR. FLANGAS: Yeah, 109.

13 HEARING OFFICER WOODMAN: Okay.

14 **Q (BY MR. FLANGAS:) I don't know why my office**

15 **combined all of that stuff.**

16 **I'm going to show you what's been marked as**

17 **Exhibit K. Do you recognize that?**

18 A Yes.

19 **Q Is it just -- What is it? An employee**

20 **handbook and contract?**

21 A Yes.

22 **Q Was this given to you or you just found it**

23 **or --**

24 A I was given one.

25 **Q I want to direct your attention to page**

1 **three. It's Bates stamp 105, okay? And to ownership of**
2 **patient records. Can you read it to yourself? Is that**
3 **your understanding Vida Spa was in charge of the records?**
4 A Yes.
5 **Q I mean, that just supports your**
6 **understanding, right?**
7 A Yes.
8 **Q The last time with patients -- last time you**
9 **would see the records is after the procedure was done and**
10 **the medical records, sedation log would leave with the**
11 **nurse?**
12 A Yes.
13 MR. FLANGAS: I'd like to admit Exhibit K.
14 MR. WHITE: No objection.
15 HEARING OFFICER WOODMAN: K is admitted.
16 **Q (BY MR. FLANGAS:) Next topic that was**
17 **brought up was the PACE program.**
18 A Yes.
19 **Q That's a program you were supposed to**
20 **complete within three years from June of 2019?**
21 A Yes.
22 **Q Okay. And you talked about how you tried to**
23 **complete it. A lot of the program is actual face-to-face**
24 **evaluation; is that correct?**
25 A Yes.

1 **Q You can't do it all remotely; correct?**
2 A Correct.
3 **Q You have to be there for a while?**
4 A Correct.
5 **Q Okay. And in March of 2020, the pandemic**
6 **hit?**
7 A Yes.
8 **Q And it's your understanding -- I think you**
9 **testified that they shut down the face-to-face or the**
10 **contact --**
11 A Yes.
12 **Q -- meetings?**
13 A They shut down everything for a while.
14 **Q Well, you saw -- Okay. I mean, you can't**
15 **help that the pandemic hit and there was a time period --**
16 A No.
17 **Q -- where you couldn't go down there?**
18 A Correct.
19 **Q And was there a backlog because they were**
20 **shut down for a while in trying to get placed again?**
21 A Yes.
22 **Q You paid money to them, right?**
23 A Yes --
24 **Q Like --**
25 A -- at the beginning.

1 **Q -- a little bit more than $10,000 now?**
2 A Yeah. $350, $10,000, $500, $1,500, and I'm
3 sure I'll have another 8,000 to pay.
4 **Q You had to wait for a psych eval for some**
5 **doctor to actually sit down with you and do an**
6 **evaluation?**
7 A And for that report to get back to the case
8 maker -- caseworker. And then she schedules it in the
9 future. I have an email to that effect.
10 MR. WHITE: As far as I'll object to you have
11 a Best Evidence Rule situation. If she has an email, I
12 think her testimony is important, but an actual email
13 would probably be more probative of what we're trying to
14 get to.
15 HEARING OFFICER WOODMAN: Under the Best
16 Evidence Rule, it would be.
17 Is there any way you could find that email
18 and --
19 THE WITNESS: Yes, it's in there.
20 HEARING OFFICER WOODMAN: -- give it to your
21 counsel?
22 THE WITNESS: Uh-huh. It says that
23 Dr. McDonald has not returned his report yet and we
24 cannot continue the scheduling until it comes back to
25 her.

1 **Q (BY MR. FLANGAS:) Who is Dr. McDonald?**
2 A The psychiatrist.
3 **Q Has he returned the report yet as far as you**
4 **know?**
5 A I haven't heard.
6 **Q Okay. You trained with Dr. Serrano for about**
7 **six months?**
8 A Yes.
9 **Q And when I said "you trained," you trained to**
10 **do lipos?**
11 A Yes.
12 **Q Did he eventually approve you and say he**
13 **certified you?**
14 A Yes.
15 **Q When do you think he left?**
16 A First of January right after the holidays.
17 **Q Is there -- I mean, I know you're suspended**
18 **now, but you have a -- you can't legally go do lipos?**
19 A No.
20 **Q Well, because you're suspended?**
21 A Correct.
22 **Q Okay. If you weren't suspended, you'd be**
23 **certified by Serrano?**
24 A Yes.
25 **Q You could go do it?**

1 A Yes.

2 **Q When you first started working there, there**

3 **were a lot of doctors going in and out of there; correct?**

4 A Correct.

5 **Q You knew that the place was in business for**

6 **many, many years?**

7 A Yes.

8 **Q Can you describe how nice the place looked to**

9 **the Hearing Master?**

10 A Very well-decorated.

11 MR. WHITE: Objection, calls for speculation.

12 Calls for --

13 THE WITNESS: Beautiful.

14 HEARING OFFICER WOODMAN: Well, it's her take

15 on it, right? And I get that.

16 You can go ahead and answer.

17 THE WITNESS: If you walk into a medi spa, a

18 spa like a hotel or something, it's absolutely decorated

19 similar to that. You just want to relax and get facials

20 and --

21 **Q (BY MR. FLANGAS:) It was a very high end --**

22 A High end.

23 **Q -- medical spa?**

24 A Very.

25 **Q Well, okay. You had nurses all around in**

1 **scrubs?**

2 A Yeah.

3 **Q You had doctors in and out of there; correct?**

4 A Correct.

5 **Q You knew it was there for a long time. Would**

6 **you even know how to check if it was at that time if it**

7 **was even -- if the facility had a license?**

8 A No. They had multiple rooms with laser

9 machines and Botox rooms and fillers.

10 **Q What I'm saying is you know now that the**

11 **facility was supposed to be licensed?**

12 A Correct.

13 **Q Okay. The question is: At the time, would**

14 **you even know how to check that back then?**

15 A No. It looked very authentic.

16 **Q Okay. No clue?**

17 A No clue.

18 **Q Gisselle, she would -- You saw the video that**

19 **Mr. White showed?**

20 A Yes.

21 **Q Gisselle would do a lot of the promotion**

22 **videos?**

23 A Yes.

24 **Q Advertising videos?**

25 A She insisted on it.

1 **Q Okay. She would -- How did it go? A patient**
2 **would come in and they would actually meet with Gisselle,**
3 **and she was like the marketing salesperson also for her**
4 **company?**
5 A Yes.
6 **Q Would she mark them up at all?**
7 A She did sometimes. Yes.
8 **Q Okay. And would she try to promote her diet**
9 **program too?**
10 A As well. Yes.
11 **Q Okay. And so when she's marking them up and**
12 **she's trying to get them to give her a deposit, was it**
13 **part of a sales pitch?**
14 A Yes.
15 **Q And she would say: Okay. You could lose**
16 **here or you could lose there and my diet could do this,**
17 **right?**
18 A Yes, she did that.
19 **Q But let's say the patient decided to put in**
20 **the deposit and do the lipo. Right?**
21 A Correct.
22 **Q Was the lipo that same day that Gisselle**
23 **would be marking them up and doing the sales pitch or was**
24 **it a different day?**
25 A Different day.

1 **Q Usually about a week or two down the road?**
2 A Yeah. At least.
3 **Q Okay. So just to recap, Vida Spa was a**
4 **custodian of records, right?**
5 A Correct.
6 **Q There was always a medical director there;**
7 **correct?**
8 A Correct.
9 **Q That was in charge of the entire operation?**
10 A Correct.
11 **Q You weren't in charge of the entire**
12 **operation?**
13 A No.
14 **Q You were an independent contractor just being**
15 **hired per diem for whatever anesthesia you do or**
16 **whatever?**
17 A For procedures, aesthetic procedures mostly.
18 **Q And it was per diem meaning they only paid**
19 **you per event?**
20 A Yes.
21 **Q You didn't oversee all of the other nurses?**
22 A No.
23 **Q You weren't in charge of the P.A.'s or the**
24 **nurse practitioners or anybody else --**
25 A No.

1 **Q -- correct? And when you were in the**
2 **procedure room and they had the medical record and**
3 **sedation log before it left, you made sure it was**
4 **accurate?**
5 A Yes.
6 **Q And the sedation log had when propofol was**
7 **used?**
8 A Yes.
9 **Q And then it went out the door with the nurse?**
10 A Yes.
11 **Q And you don't really know where it went after**
12 **that?**
13 A No.
14 MR. FLANGAS: Okay. That's all.
15 HEARING OFFICER WOODMAN: Thank you.
16 Mr. White, do you have what would be
17 technically redirect?
18 MR. WHITE: Yes. One moment here.
19
20 FURTHER REDIRECT EXAMINATION
21 BY MR WHITE:
22 **Q Dr. Phillips, your attorney just asked you if**
23 **there was a week, about a week span between Ms. Platfoot**
24 **marking people up which would be considered diagnosing**
25 **somebody, right?**

1 MR. FLANGAS: I'll object. That's a loaded
2 question, it's a leading question, and you're saying that
3 -- you're basically testifying saying her marking people
4 up is her diagnosing people.
5 **Q (BY MR. WHITE:) Is marking people up**
6 **diagnosing people?**
7 A No.
8 **Q Okay. Thanks for that answer. So she's**
9 **marking people up and then they leave?**
10 A I don't know where they go after they talk to
11 her, but I do know that they have to be NPO for 24 hours.
12 They have to have a COVID test when they come in and a
13 hemoglobin of at least 12. And basically, that can't be
14 done when she's advertising, and she does collect a
15 deposit. Nobody is done until they pay.
16 **Q So as somebody who does liposuction, how do**
17 **you know what they need? Do they walk into your office**
18 **into the surgery room with the markings on them?**
19 A No. I have to -- I would have to re-evaluate
20 them totally when they're actually --
21 **Q Do you have any of that in the medical**
22 **records that you re-evaluate them?**
23 A In the surgery record, I have pictures on my
24 phone of the befores and afters and that's --
25 **Q On your phone?**

1 A Yes. And I --

2 **Q But they're not in the medical records?**

3 A The pictures are sent directly to the

4 patient.

5 **Q And the re-evaluation that you just**

6 **mentioned, is it in the medical records at all that we**

7 **can look at that you can point them out?**

8 A It's the first sheet where it has the IV, the

9 blood pressure, the patient's name, their phone number,

10 their family member's phone number, their pharmacy phone

11 number and number and whether their COVID test is

12 negative, whether their pregnancy test is -- Well, we did

13 some guys, I guess you could say, but the female that

14 their pregnancy test is negative.

15 **Q I'm going to object to nonresponsive. Do you**

16 **have your re-evaluation? Do you put it in your -- in the**

17 **medical records?**

18 MR. FLANGAS: I'm just going to, for the

19 record, she was explaining what was in the re-eval, what

20 she looked at for the re-evaluation. She was describing

21 the form.

22 **Q (BY MR. WHITE:) Okay. Let me make a little**

23 **better foundation question then. Do you reevaluate them**

24 **for where they need liposuction?**

25 HEARING OFFICER WOODMAN: At what time?

1 When?

2 THE WITNESS: Yes.

3 **Q (BY MR. WHITE:) When you see them? Okay.**

4 **I'll just have to ask. You had said that they do not**

5 **come into your office with the markings on them that**

6 **Gisselle did?**

7 A Yes.

8 **Q And sometimes there's a few days' span**

9 **between the markings and when they come back?**

10 A Yes.

11 MR. FLANGAS: Her testimony was a week to two

12 weeks.

13 MR. WHITE: Okay.

14 HEARING OFFICER WOODMAN: And that's why I

15 was trying to clarify at what point you're talking about.

16 Is this when they're actually coming in for the

17 procedure.

18 MR. WHITE: Okay.

19 THE WITNESS: Yes.

20 **Q (BY MR. WHITE:) So they actually come from**

21 **for the procedure and you re-evaluate them?**

22 A Yes.

23 **Q Before you start doing liposuction?**

24 A Doing anything or even marking them.

25 **Q Do you re-mark them up?**

1 A Yes.

2 **Q Who does?**

3 A I would.

4 **Q And is that anywhere in the medical records,**

5 **that re-evaluation you we just talked about?**

6 A That's on their pictures that are given to

7 the patient.

8 **Q So I guess the answer is they're not in these**

9 **medical records?**

10 A Not in there. No.

11 **Q Your attorney asked you a question about**

12 **R.N.'s being certified. Do you remember that?**

13 A Yes.

14 **Q How do you know all of the R.N.'s were**

15 **registered or certified?**

16 A One of them, I asked her and she told me,

17 which course she took, and the others stated they were

18 because they were at the hospital and they had to

19 administer the infusions at the hospital.

20 **Q So and when I say "Certified," I think the**

21 **question was certified to do anesthesia; correct?**

22 A No, to do sedation with propofol or to

23 administer medications.

24 **Q So was there a difference between being**

25 **certified to do propofol versus other kinds of**

1 **anesthesia?**

2 A Yes. They cannot be totally certified to do

3 general anesthesia, which would require an anesthesia

4 machine. Sevoflurane, Propofol -- not propofol.

5 Desflurane or Isofluorene or a nitrous machine. They

6 would -- in that case, they would be intubated and would

7 breathe the gas, and that would be general anesthesia.

8 And they're not certified to do that unless they are a

9 nurse anesthetist.

10 **Q Okay. And none of these were nurse**

11 **anesthetists; is that correct?**

12 A No, they didn't have to be.

13 **Q But they were certified to run the machine**

14 **that provides propofol?**

15 A Yes.

16 **Q And you had stated that you really didn't**

17 **need to be there?**

18 A Correct.

19 **Q And did you ever ask for their certificate to**

20 **see it?**

21 A No. I took their word for it that they were

22 certified. And I also asked them if they were ACLS

23 certified occasionally, and that's a positive.

24 **Q ACLS?**

25 A Advanced Cardiac Life Support. It means that

1 if something happened -- I'm ACLS certified. But nurses
2 should be if they're working in a situation where they
3 might have an emergency. I don't know that that's
4 required for sedation, but it would definitely make me
5 feel more comfortable to know there's another person that
6 has that training.
7 **Q I think we only need to use that for**
8 **demonstrative purposes probably. I don't think we need**
9 **to enter it into the -- we don't need to make this**
10 **another exhibit, but I'll hand out copies. So let me**
11 **kind of give a little background. This is basically a**
12 **printout from the computer access portal for renewal.**
13 **And really, the most important -- one of the most**
14 **important parts is the first page.**
15 **So, Dr. Phillips, if you could look.**
16 MR. FLANGAS: Real quick.
17 MR. WHITE: Do you want to take a look at it
18 a little longer?
19 MR. FLANGAS: No. I just want to lodge an
20 objection and you can continue, which is this was, you
21 know, never given to me yet.
22 MR. WHITE: No, it just came up --
23 MR. FLANGAS: I know.
24 MR. WHITE: -- because she answered --
25 MR. FLANGAS: I know.

1 MR. WHITE: -- she couldn't answer when she
2 renewed --
3 MR. FLANGAS: I understand.
4 MR. WHITE: -- and I was having a lot of
5 trouble getting answers from her.
6 MR. FLANGAS: And, well, for the record, it's
7 not that you had problems getting answers from her. She
8 didn't know and she wasn't sure.
9 MR. WHITE: I'm not even sure she knows she
10 renewed --
11 MR. FLANGAS: Right.
12 Mr. WHITE: -- much less who did it.
13 MR. FLANGAS: Yeah. And then the other thing
14 is just -- and I know you've already ruled, you know,
15 that you look at the cause of actions, but it's not
16 relevant to the causes of action. There's nothing being
17 alleged that she renewed, she didn't do something or did
18 something. So that's my objection.
19 MR. WHITE: I don't think every single piece
20 of evidence needs to be related to the cause of action.
21 There's circumstantial evidence that happens all the
22 time.
23 HEARING OFFICER WOODMAN: Well, this is the
24 way I look at this. It came up in examination. Right
25 now, you're not offering this as an exhibit, right?

1 MR. WHITE: No. I don't think there's any
2 reason.
3 MR. FLANGAS: Okay.
4 HEARING OFFICER WOODMAN: But if you want a
5 few minutes to go through this with your client, that
6 would only be fair.
7 MR. FLANGAS: No, he could just have her read
8 what they're looking at.
9 HEARING OFFICER WOODMAN: All right.
10 **Q (BY MR. WHITE:) So if you look on the first**
11 **page, and it would be the left side there, do you see**
12 **where it says "Renewal year"? Actually, let's start with**
13 **your name. Is that your name?**
14 A Yeah.
15 **Q Okay. And do you see where it says: Renewal**
16 **year 2021?**
17 A Yes. Uh-huh.
18 **Q And what does it say for the start date of**
19 **the application?**
20 A May 26th, 2021.
21 **Q And then the submitted date? Same day,**
22 **right?**
23 A Yeah.
24 **Q And did you see decision date?**
25 A Yeah, two days later.

1 **Q May 28th, 2021?**
2 A Yeah.
3 **Q So you had a renewal. You got a renewed**
4 **license?**
5 MR. FLANGAS: Hang on a second. Hang on a
6 sec. I object. You haven't laid a foundation whether
7 she's even seen this before. If you're asking her --
8 MR. WHITE: She wouldn't have seen this
9 before unless she saw it on the computer. This is a
10 computer printout.
11 MR. FLANGAS: Okay. So you're asking her
12 look. Is it possible you actually did renew based on
13 this, that's the legit question. But does this refresh
14 your memory at all or anything else. But if she's
15 reading it and you're having her read and say well, it
16 says that you renewed decision date, she's basically
17 reading from the document. She's not testifying on her
18 own personal knowledge.
19 **Q Dr. Phillips, May 28th is the date on here,**
20 **right, of renewal?**
21 A That's what it says.
22 **Q When did you stop practicing? When did you**
23 **stop doing liposuctions again? In June?**
24 A Stop?
25 **Q Yeah.**

1 A Yeah, the first part.

2 **Q Does this look at all familiar to you as what**

3 **you were looking at on your computer?**

4 A Never seen it. I don't remember.

5 **Q No, on your computer. This would be up on**

6 **your screen. There's like drop-down menus and things**

7 **like that?**

8 A To be honest, I don't do very well on

9 computers sometimes. I have a lot of trouble, you know,

10 logging in and logging out, and I think it's my Internet.

11 **Q Did you renew your license or did you have**

12 **somebody else do it?**

13 A I was in conference with Ms. Begs.

14 **Q But was she doing it or were you doing the**

15 **actual keystrokes?**

16 A I think she was doing part of it. I did

17 some.

18 MR. FLANGAS: I'll just object to calls for

19 speculation.

20 THE WITNESS: I don't remember exactly.

21 **Q (BY MR. WHITE:) Okay. Will you speculate,**

22 **please, on whether you were doing the keystrokes?**

23 A I don't remember.

24 **Q Just kidding. Would you -- Do you know if**

25 **you were actually doing the keystrokes on your computer?**

1 A I was on the computer, but I don't think I
2 finished the application.
3 HEARING OFFICER WOODMAN: And I'm just going
4 to ask a clarifying question then. Do you think someone
5 else finished it for you or do you just think you left it
6 unfinished?
7 THE WITNESS: I thought I left it unfinished,
8 but somebody could have easily finished it, I guess.
9 **Q (BY MR. WHITE:) Is there -- and you know**
10 **better than I do. Is there a -- because I'm not a**
11 **doctor. I don't do this every year. Is there a password**
12 **that you need to get into to log into your account?**
13 A I think I had one, yeah, a numbered login.
14 **Q Did you give that to somebody else?**
15 A No. I don't even remember it though. You
16 mean the pass code?
17 **Q Yeah.**
18 A I don't remember.
19 MR. WHITE: Can we go off the record?
20 MR. FLANGAS: Can I ask the question?
21 MR. WHITE: Let's go off the record for one
22 second, and I want to ask you a question too.
23 HEARING OFFICER WOODMAN: We're off the
24 record for a moment.
25 (WHEREUPON, an off-the-record discussion ensued.)

1 (Requested portion read by the reporter.)
2 HEARING OFFICER WOODMAN: We are back on the
3 record in the case of Dr. Phillips, and we have a new
4 expert medical witness, Dr. Janes, and Dr. Janes, as we
5 stated, I'm going to have our reporter swear you in.
6
7 MARK JANES, M.D.,
8 having been first duly sworn, was
9 examined and testified as follows:
10
11 HEARING OFFICER WOODMAN: Dr. Janes, because
12 counsel for the Board has called you, so Mr. White will
13 get to ask you questions first and then Mr. Flangas.
14 THE WITNESS: Okay. Sure.
15 MR. WHITE: Good afternoon, Dr. Janes.
16 THE WITNESS: Hi.
17 MR. WHITE: Thank you for being here.
18 THE WITNESS: Sure.
19
20 DIRECT EXAMINATION
21 BY MR. WHITE:
22 **Q Would you please say your first and last name**
23 **and spell them for the record.**
24 A Sure. Mark, last name Jane, spelled: J-A-N,
25 as in Nancy, E-S.

1 **Q And is Mark is common spelling with a K?**
2 A Pardon? Yes, that is correct.
3 **Q How long have you been a licensed doctor?**
4 A In the State of Nevada or in general?
5 **Q In general.**
6 A Finished my -- well, I finished medical
7 school in '95, probably got a license a year after that
8 when you're a resident, so somewhere around that.
9 **Q Have you practiced -- so you've been**
10 **practicing since that year?**
11 A Essentially.
12 **Q And has all of it been in Nevada?**
13 A No.
14 **Q Where else did you practice?**
15 A I was at the University of Colorado as a
16 faculty member there for a while, and I was also -- I
17 guess I did my internship at the University of Utah. I
18 don't know if I had a license there or not. I don't
19 remember. I doubt it.
20 **Q Okay. And when did you arrive in Nevada?**
21 A Oh, gosh. Around 2000. Somewhere around
22 that. 2001.
23 **Q And how long have you been practicing as an**
24 **anesthesiologist? The entire time?**
25 A Here in Nevada? Yeah. That's correct.

1 **Q And are you still practicing in**
2 **anesthesiology --**
3 A Correct.
4 **Q -- currently? Are you Board certified in**
5 **anesthesiology?**
6 A Correct.
7 **Q All right. I need you -- I think I already**
8 **kind of did it, but turn to page or Exhibit 102, please.**
9 A Okay.
10 **Q I'm also going to mention to you that you, as**
11 **part of your review, there was some hospital records that**
12 **you reviewed too; correct?**
13 A Yes, that is correct.
14 **Q We're not going to refer to those.**
15 A Okay.
16 **Q So any answers -- any questions I ask you are**
17 **not going to refer to those, and your answers should not**
18 **refer to those either.**
19 A Okay.
20 MR. FLANGAS: Not only refer, should any
21 knowledge he gathered from that shouldn't even be in the
22 answers.
23 **Q (BY MR. WHITE:) Right. Now, other than**
24 **besides the hospital records, there's other records that**
25 **you were asked to review regarding Patient TTT. I will**

1 **represent that the person you're looking at is Patient**
2 **TTT.**
3 A Okay.
4 **Q We don't refer to names on the record,**
5 **patient names.**
6 A Okay.
7 **Q Okay? So I need you to turn specifically to**
8 **page 2552.**
9 A Yep.
10 **Q Okay. Now, if you know, this is kind of a**
11 **general question actually. If you know, are medical**
12 **facilities required to have a permit to do**
13 **anesthesiology?**
14 A I can only make an assumption. I assume so,
15 but it's not my area of knowledge or expertise.
16 **Q Where do you work out of?**
17 A Currently Renown and another surgery center
18 we cover.
19 **Q What's the other surgery center?**
20 A We cover SCOR Surgery Center of Reno.
21 **Q Okay. And if you know, do you know the**
22 **reason why the medical facilities would be required to**
23 **have --**
24 MR. FLANGAS: I'll object. Just calls for --
25 MR. WHITE: Can I finish the question?

1 MR. FLANGAS: Yeah, I'm sorry.

2 **Q (BY MR. WHITE:) Thanks. If you know, do you**
3 **know why medical facilities would be required to have a**
4 **permit to do anesthesiology?**

5 A Yeah. I can't answer that question with any
6 degree of knowledge or expertise.

7 **Q If you know, by working at Renown or SCOR, is**
8 **there safety precautions in place for if there were to be**
9 **some sort of disaster at the facility when people were**
10 **under anesthesia?**

11 MR. FLANGAS: Just real quick, object. It's
12 vague: Disaster.

13 MR. WHITE: Okay. Do you want to say a fire?
14 I'll say a fire.

15 MR. FLANGAS: Okay. Yeah.

16 **Q (BY MR. WHITE:) A fire starts. Is there**
17 **safety precautions in place to get those people out of**
18 **there?**

19 A Again, I can speculate and say I assume so.
20 I haven't seen such regulations, and I've never been at a
21 facility where there's a fire. I don't know.

22 **Q Okay. Now, did you have a chance to look at**
23 **all of the pages in there? I think there's about 22**
24 **pages.**

25 A No.

1 **Q If you want to just flip through it really**
2 **quick. And the question I'm going to ask you is if this**
3 **looks like what you reviewed.**
4 A As far as I can tell, it's part of what I
5 reviewed.
6 **Q Okay. Part meaning we're not going to go**
7 **into the hospital records because they're not there.**
8 A Okay. I feel like I saw more papers than
9 this that weren't just hospital records, but I'm not
10 sure. It's possible. You guys sent me a thousand pages.
11 I don't remember each and every one of them.
12 **Q Okay. So on page 225 -- 2552, excuse me --**
13 A Uh-huh.
14 **Q Do you see where it says "anesthesiologist"?**
15 A Yeah, I'm on the page.
16 **Q It's about three-quarters of the way down the**
17 **page on the right. It's very small.**
18 A Sure.
19 **Q Okay. Do you see a signature for**
20 **Dr. Phillips there?**
21 A Yes.
22 **Q Would it be common practice, Dr., if --**
23 MR. FLANGAS: Objection, leading.
24 HEARING OFFICER WOODMAN: Sustained. You
25 didn't get your question out, but it was heading down

1 that direction.

2 **Q (BY MR. WHITE:) I'm not saying you know or**
3 **you understand or it's true. It's not leading. I'm**
4 **asking him is it common practice, Doctor, as an**
5 **anesthesiologist to sign a medical record if you did not**
6 **do the anesthesia?**

7 A I don't know if I can speak to what common
8 practice is. And I don't know. This is, looks like, an
9 anesthesia record from a facility, but I don't --

10 **Q Would you sign a medical record if you hadn't**
11 **actually done the anesthesia where it says**
12 **anesthesiologist?**

13 A Yeah, I don't -- yeah, I don't believe I
14 would. I mean, we sign other things that like order sets
15 and all kinds of other documents, but if it's a medical
16 record that's done by an anesthesiologist and I wasn't
17 the anesthesiologist or wasn't in the room, I wouldn't
18 sign it.

19 **Q Okay. What if you were supervising somebody**
20 **else?**

21 A I don't really super -- we don't have CRN's.
22 I don't supervise on my current job, so I don't honestly
23 know how that works.

24 **Q So you've never supervised like a --**

25 A I did at the University of Colorado, but that

1 was 20 years ago. I don't remember how I signed
2 documents then.
3 **Q Do you use propofol?**
4 A Yes.
5 **Q All right. And does it look like on this**
6 **page that that was what was used: Propofol? I'm going**
7 **to point Your Honor down to almost the bottom line three**
8 **lines up, and I'll also represent because it's been done**
9 **already before you got here, but it's in the record that**
10 **that is Dr. Phillips' handwriting at the bottom.**
11 A I see the word "propofol". I don't know.
12 **Q See propofol infusion at?**
13 A I do.
14 **Q Okay. So propofol -- looks like propofol was**
15 **used for this?**
16 A Yes. It says propofol infusion at 40 cc's an
17 hour.
18 **Q Do you ever use propofol?**
19 A Yes.
20 **Q How often? Lots?**
21 A Every day I work.
22 **Q Just little bullets points. Can you describe**
23 **your process when you actually put somebody under**
24 **propofol?**
25 A The process --

1 **Q Yes?**

2 A -- of induction dose or sedation?

3 **Q Sedation.**

4 A Well, they're two different things.

5 **Q Okay. Explain to us.**

6 A For sedation, oftentimes we'll give them a

7 bolus that makes them sleepy, and then we run an infusion

8 at a particular rate. Standard for a propofol infusion.

9 Yeah, for propofol sedation case. Yeah.

10 **Q So what's the difference? Again, you said**

11 **pro --**

12 A Sometimes we use --

13 **Q -- pofol and sedation?**

14 A -- propofol for induction, which is we just

15 get a bolus and a syringe that makes somebody fall

16 asleep, and then we don't continue an infusion of it. We

17 use something else to keep the person asleep.

18 **Q Are you ever asked to do anesthesia for**

19 **liposuctions?**

20 A A little bit. I haven't done a ton of it,

21 no. But yes, I've done it.

22 **Q You've done it. So when you did that**

23 **anesthesia for a liposuction, did you do the infusion or**

24 **did you do the other bolus thing you talked about?**

25 A I can't -- I mean, I'd have to talk about

1 specific cases. I can't remember specific cases for
2 specific anesthetics for specific cases that were over a
3 year ago, so I can't really speak to that.
4 **Q When you reviewed this -- and I mainly want**
5 **to just talk about page 2552 -- is there anything on that**
6 **page that brought concern to you?**
7 A I'd have to look at what I wrote. I reviewed
8 this case over a year ago, so I'd have to look at what I
9 wrote and then look back at this specifically. I don't
10 remember just by looking at this.
11 **Q Okay.**
12 A I remember having specific or when I looked
13 at -- re-read that report today, I mean, obviously, I had
14 some concerns about the case, but I can't speak
15 specifically if they were -- I don't remember if they
16 were --
17 **Q Were you concerned at all about aftercare?**
18 A Yeah, I remember, yeah. And I saw that in
19 the report that I wrote that I did have some concerns
20 about aftercare.
21 **Q Okay. What were they?**
22 A I remember so again, I looked at this briefly
23 before I came here. I remember that evidently, the
24 patient was given a reversal agent for benzodiazepine
25 sedation.

1 And I remember the biggest concern I had is
2 that when people have altered mental status
3 postoperatively, typically, we always see those patients.
4 If I take care of somebody and they have an altered
5 mental status postoperatively, then it's standard of care
6 to see those patients and see what's going on. And I
7 don't remember seeing any notes to that effect in the
8 papers that I was sent.
9 **Q So when you say "see those patients," would**
10 **you monitor them a little longer since they were --**
11 A It depends on what you see and what you find
12 but, you know, when you give a medicine that reverses a
13 sedation drug we give, that's an indication that their
14 mental status, you know, is not back to baseline. And
15 for us to discharge them, they need to have a mental
16 status that's pretty close to baseline.
17 And if I'm not mistaken, this person was
18 given Flumazenil afterwards which was to reverse
19 benzodiazepine sedation which indicated to me there was
20 some questions about that person's mental status being
21 they were back to baseline or not.
22 **Q How many times have you used Flumazenil?**
23 A Very, very rarely.
24 **Q So you've been practicing in Nevada for 22**
25 **years. Can you give us an estimate of --**

1 A Less than five --

2 **Q -- how many times you've --**

3 A -- for sure.

4 **Q Less than five years --**

5 A Yeah.

6 **Q -- in 22 years?**

7 A It's not commonly used by me.

8 **Q If you can answer this, and I think you tried**

9 **to explain just now and I didn't ask a very good**

10 **question. My fault. How long would you monitor somebody**

11 **after --**

12 MR. FLANGAS: Objection, calls for

13 speculation.

14 **Q (BY MR. WHITE:) -- they've been given**

15 **Flumazenil?**

16 A I don't know the answer to that. It depends

17 on the patient. So much of this is based on the person

18 that you see, and you would see the patient, evaluate

19 them, and that could be a long time. That could be a

20 short period of time depending on what you see. I

21 wouldn't have a standard time.

22 **Q So does sometimes the Flumazenil works pretty**

23 **quickly and they're okay?**

24 A Sure. That's possible.

25 **Q And sometimes maybe not?**

1 A Sometimes maybe not. There's something else
2 maybe causing it. It depends on the situation.
3 **Q I think you'll notice down here the very**
4 **bottom line of handwriting, it's kind of cut off a little**
5 **bit. Do you see where it says "signif bleeding"?**
6 A Yeah.
7 **Q Was that a concern too?**
8 A Well, I remember in the case -- Was that a
9 concern? Can you be more specific?
10 **Q Yeah, I sure can. As an anesthesiologist**
11 **that sees these things sometimes, I think there was**
12 **reference to 500 cc's estimated blood, and I'm looking at**
13 **the --**
14 A Yeah, I see that.
15 **Q -- 500 --**
16 A Correct.
17 **Q -- equal 500 cc's?**
18 A Correct.
19 **Q Would that -- as an anesthesiologist that's**
20 **tasked with making sure this person is okay when they**
21 **leave or before you discharge them, would you be**
22 **concerned with that sort of blood loss? I just want to**
23 **know yes or no.**
24 A I don't think there's a yes-or-no answer to
25 that. It depends on the patient. It depends on too many

1 variables. I just don't think it's that simple. In some
2 patients, yes. In some patients, no.
3 **Q When you use propofol --**
4 A Yes.
5 **Q -- which you said you use every day --**
6 A Correct.
7 **Q -- do you put that in the medical record?**
8 A Absolutely.
9 **Q Okay. Would you have a separate log for**
10 **propofol?**
11 MR. FLANGAS: I'll object. Calls for
12 speculation.
13 MR. WHITE: He knows if he --
14 MR. FLANGAS: It's not a separate -- you said
15 medical record. The sedation log is part of the medical
16 record, so --
17 MR. WHITE: No, it's not.
18 MR. FLANGAS: Yes, it is.
19 MR. WHITE: No, it's not.
20 MR. FLANGAS: So are you saying it's a
21 separate --
22 HEARING OFFICER WOODMAN: Okay. So the
23 objection, the basis for the objection is calls for
24 speculation?
25 MR. FLANGAS: Yeah.

1 HEARING OFFICER WOODMAN: So, Mr. White, ask
2 the question again.
3 And, Dr. Janes, if the question makes sense
4 to you and you can answer it, go ahead.
5 THE WITNESS: Okay.
6 HEARING OFFICER WOODMAN: If it doesn't make
7 sense, just let us know that.
8 **Q (BY MR. WHITE:) You might need this in a**
9 **second.**
10 **Are you familiar with a sedation log?**
11 A I don't know what that specific term means.
12 **Q Okay. Would you turn to page -- Exhibit 11**
13 **of that binder.**
14 A Gotcha.
15 **Q Thank you. Have you ever seen anything like**
16 **that?**
17 A No, not specifically. It doesn't look like
18 something I've used before. It says -- names the
19 medications. It says number of vials. Then it says it's
20 given to a patient, some employee and some treatment. I
21 don't know. That could be a log that a facility uses to
22 track how much stuff is used.
23 **Q But if the --**
24 A That's not -- Keep going. Sorry.
25 **Q That's okay. If that's what it is -- and**

1 **maybe it is, maybe it isn't. I'm still trying to figure**
2 **it out.**
3 A Okay.
4 **Q If that's what it is, a separate log just to**
5 **track usage, regardless of that, would you still have the**
6 **amount of propofol you had administered in your records?**
7 A Absolutely. As part of my anesthetic record,
8 I would have the amount of propofol or at least you'd be
9 able to calculate it based on what I wrote. So it would
10 be either boluses and the amount given in boluses of an
11 infusion rate. And with all of that, you could calculate
12 exactly how much propofol I gave during a case.
13 **Q Would you yourself or instruct somebody else**
14 **to leave out the amount of propofol administered in a**
15 **medical record and then keep a log like that separately?**
16 MR. FLANGAS: I'll just object. I don't
17 understand the question.
18 MR. WHITE: I'm not asking you the question.
19 HEARING OFFICER WOODMAN: Do you understand
20 the question?
21 THE WITNESS: I do. When I administer a
22 medication to a person, it goes in my medical record, and
23 if I give it, I put it in the medical record. It's that
24 simple.
25 **Q (BY MR. WHITE:) Thank you, Doctor.**

1 **Indulgence a minute. Fast-forward through here.**
2 **Dr. Janes, in this -- back to page 2552 of**
3 **Exhibit 102.**
4 A Right.
5 **Q Do you see any documentation on that page**
6 **reflecting volume status?**
7 A You have to be careful how you define volume
8 status. Volume status, I don't think that's typically
9 documented on a patient during a case because we don't
10 have access to their volume status. You'd have to have
11 like a central line or something that would give us --
12 that would be an indirect measure of a patient's volume
13 status, so --
14 **Q How about --**
15 A -- there's no direct measure of such that we
16 frequently use. I mean, we can use I's and O's, like the
17 amount of stuff that's going in, the amount that's coming
18 out to make an estimation of whether or not a volume
19 status has changed, but I don't think volume status as a
20 physiological variable is commonly monitored.
21 **Q Okay. How about IV fluids?**
22 A Yes, it would be standard if you're giving IV
23 fluids to document how much you're giving during a case.
24 **Q Do you see anything like that on there?**
25 A I see volumes of liquids, but they don't look

1 like IV fluids. They look like what was used during the
2 procedure.
3 **Q Are you talking about where it says three**
4 **liters?**
5 A Yeah, where it's aspiration. Those are
6 volumes. And I don't know if that's stuff there. It
7 says aspirating, so there's fluid measures there. But
8 that doesn't look like IV fluids. There's blood loss,
9 which is not an IV fluid. I do not see IV fluids on
10 here.
11 **Q And what about we talked about a little bit**
12 **because of the Flumazenil -- Do you see any indication of**
13 **what this patient's mental status was?**
14 A I do not.
15 **Q Is that a concern to you?**
16 A If a patient's being sedated, we don't
17 typically monitor mental status during the sedation. No.
18 **Q Would you monitor mental status or at least**
19 **write down mental status when they're giving Flumazenil?**
20 A Afterwards, yes. Afterwards, a mental status
21 examination is a standard part of a postoperative
22 examination in assessing their -- yeah, absolutely there
23 should be a mental status evaluation at some point
24 afterwards and probably before.
25 **Q Is it also standard when you're administering**

1 **propofol to have an electrocardiogram displayed?**
2 A Yes, that's standard in monitoring. That's a
3 standard ASA guideline standard monitor to be used.
4 **Q And do you see that? Do you see indication**
5 **that that was done in this case on this piece of paper:**
6 **2552?**
7 A No, I see blood pressure, heart rate,
8 respiratory rate, oxygen saturation which are also
9 required monitors.
10 **Q But you don't see an electrocardiogram?**
11 A No, I do not.
12 **Q How about vital signs? Are they recorded**
13 **here?**
14 A Yeah, I see some blood pressures and some
15 heart rates and some respiratory rates and O2 stats.
16 Those would also be considered vital signs.
17 **Q How often do you record vital signs?**
18 A It depends on the case, but it's three to
19 five minutes, I would say would be -- in fact, all of our
20 monitors are set are defaulted at three minutes nowadays,
21 and five minutes would be the longest I'd probably go.
22 And it depends on what you're administering. At the end
23 of the day, I would do every five minutes in any
24 scenario, especially when giving propofol, which is a
25 pretty strong medication.

1 **Q So looking at times, were they doing it every**
2 **five minutes?**
3 A No.
4 **Q Was this considered regular?**
5 A I don't think that meets the standard of care
6 as defined by the American Society of Anesthesiology.
7 No.
8 **Q What is supplemental oxygen?**
9 A We breathe oxygen in the air, and when you're
10 undergoing a procedure that involves the use of
11 medications that can suppress respiration, we often give
12 oxygen in addition to what people breathe in the air, so
13 that would be the definition of supplemental oxygen.
14 **Q Is there any indication here that this**
15 **patient required that?**
16 A I don't see supplemental oxygen on here.
17 **Q Would a patient, under propofol**
18 **administration, would they need that?**
19 A That's a sticky question.
20 **Q If you know.**
21 A Would they need that?
22 **Q Yeah, if you know. Is it standard to give**
23 **them that?**
24 A It would be standard to give somebody
25 supplemental oxygen when giving a strong sedating

1 medication like propofol. Yes, I would say that's true.

2 **Q Doctor, is there a time when you -- and I'm**

3 **almost done here. Is there a time when you monitor the**

4 **stability of the patient? Is it throughout the process**

5 **or is it closer or the end of the process when you have**

6 **somebody under propofol?**

7 A You monitor them constantly.

8 **Q The stability of them?**

9 A Absolutely.

10 **Q Okay. And now is it you that's monitoring**

11 **them or is somebody else doing that?**

12 A When you're an anesthesiologist by yourself

13 and you don't have a CRNA or another -- an anesthesia

14 assistant who is licensed to do that, it's a hundred

15 percent your responsibility.

16 **Q And do you communicate with the rest of the**

17 **surgery team throughout the process?**

18 A Absolutely.

19 **Q Throughout the surgery?**

20 A Absolutely.

21 **Q And you're kind of barking out numbers and**

22 **telling them what --**

23 A Not necessarily.

24 **Q Tell us how that goes.**

25 A It depends on the clinical situation. During

1 a standard care where nothing happens out of the
2 ordinary, I may not say a single word about a vital sign
3 or a patient condition.
4 If the patient is -- if there's something
5 going outside of normal or you see abnormalities in vital
6 signs, then you would communicate more with people. So
7 it depends on the scenario how much communication there
8 is. That kind of stuff.
9 **Q And is that just a matter of raising your**
10 **voice and saying: Hey, this is what's going on right**
11 **now?**
12 A Absolutely. Yeah. There's no -- to my
13 knowledge, it's just simple communication.
14 **Q So you said you'd done some liposuction, some**
15 **fat -- you've done -- not you've done them.**
16 A I've done it. Not a lot.
17 **Q Yeah. Let me correct that. You have done**
18 **anesthesia for those --**
19 A I have --
20 **Q -- processes?**
21 A -- before. That's correct.
22 **Q How many people, if you can remember, were**
23 **present in the room when that occurred?**
24 A Typical case like that would be an anesthesia
25 person, a surgeon, maybe a surgical assistant, a

1 circulating nurse, a scrub person or two.

2 **Q Have you ever been in a situation where a**

3 **physician assistant was doing a liposuction or a fat**

4 **transfer or both?**

5 A I can't speak to that. Doing the procedure

6 by themselves without supervision? The primary

7 procedure? I think that's a better question for a

8 plastic surgeon. I'm not able to state what's normal for

9 plastic surgical practice.

10 **Q Okay. If that were the case --**

11 A If what were the case?

12 **Q Well --**

13 MR. FLANGAS: I'll object.

14 MR. WHITE: I'll represent that -- Hold on.

15 I haven't asked anything yet. I want --

16 MR. FLANGAS: He said he doesn't -- He said

17 go ask a plastic surgeon about. So now you're saying if

18 that's the case --

19 MR. WHITE: I'll rephrase the question.

20 MR. FLANGAS: Okay.

21 **Q (BY MR. WHITE:) Do you see where it says:**

22 **"T. Hankins" about three-quarters of the way down on the**

23 **left side? It's next to anesthesiologist, but there's**

24 **also some letters circled?**

25 A Where it says P.A., yeah --

1 **Q P.A. circled.**
2 A -- I see that.
3 **Q I'll represent to you that it's not in**
4 **dispute that a P.A. was doing this liposuction and fat**
5 **transfer.**
6 A Okay.
7 **Q Okay? So if you were in a situation like**
8 **that as the anesthesiologist, would you feel like the**
9 **most responsible person in the room if there was no other**
10 **M.D. in there?**
11 A It's a complicated question.
12 **Q If you know. If you know.**
13 A I'd feel just as responsible for my job, but
14 would -- like I'm not responsible for their job. And it
15 may change me if I was working with a plastic surgeon who
16 wasn't showing up and doing the cases, I wouldn't do the
17 cases. I wouldn't be in there. But I can't speak to --
18 it's not my job as an anesthesiologist during the case to
19 monitor their job.
20 **Q Okay. I understand. I appreciate your**
21 **answer. Doctor, you had said before that the main thing**
22 **is that these vital signs weren't being taken down every**
23 **five minutes and --**
24 A Go ahead.
25 **Q -- that doesn't meet the standard of care.**

1 A That was one of the observations I had. Yes.
2 **Q Okay. Is there anything else in here that**
3 **you feel is -- this is probably my last question --**
4 **anything else in here that you feel and from your review**
5 **of those records that did not meet the standard of care?**
6 A I'd have to refer back to my record to the
7 specific things about the case that I felt were
8 inadequate, but you've covered a couple of them.
9 MR. WHITE: Okay.
10 HEARING OFFICER WOODMAN: Is that it?
11 MR. WHITE: That's it.
12 HEARING OFFICER WOODMAN: Dr. Janes, before
13 Mr. Flangas starts asking you questions, what time do you
14 need to leave here?
15 THE WITNESS: I have a child to pick up from
16 a bus stop at 4:05 basically, and it's about a 20-minute
17 drive up the hill.
18 HEARING OFFICER WOODMAN: So you really need
19 to peel out of here by about 20 minutes till?
20 THE WITNESS: Yeah, something like that.
21 HEARING OFFICER WOODMAN: Okay. 3:40?
22 THE WITNESS: I'm okay with that.
23 MR. WHITE: That's perfect.
24 HEARING OFFICER WOODMAN: That gives him a
25 half an hour.

1 THE WITNESS: Okay.

2 HEARING OFFICER WOODMAN: So, Mr. Flangas,

3 you've got about a half an hour.

4 MR. FLANGAS: That's fine. I don't have that

5 long at all.

6

7 CROSS-EXAMINATION

8 BY MR. FLANGAS:

9 **Q You know, if the patient is awake under**

10 **propofol, do some doctors say the standard of care is**

11 **every 15 minutes?**

12 A I can't -- Some doctors? Who is that?

13 **Q I don't know. Have you known doctors when**

14 **they're awake, when the patient is awake, are you aware**

15 **that some doctors believe that --**

16 A It's a lot of people.

17 **Q -- do you believe that 15 minutes is standard**

18 **of care?**

19 A I can't speak to any -- I don't work with a

20 lot of physicians who wouldn't follow a standard as

21 written down by our the American Society of

22 Anesthesiologists. Maybe 20, 30 years ago they did some

23 things like that for sure. But I don't know -- it's not

24 part of how we practice now.

25 **Q Okay. On here, it shows the oxygen levels?**

1 A Yes.

2 **Q They're all normal?**

3 A Yeah, they all look fine.

4 **Q So I know you don't know whether oxygen was**

5 **given or not, but the oxygen levels look fine, right?**

6 A Correct.

7 **Q Okay. When you were saying the typical**

8 **amount of people working on a -- when you did -- you've**

9 **done a couple of lipo -- well, you were the**

10 **anesthesiologist, but you've been in a room where there**

11 **was a procedure, lipo procedure before --**

12 A Correct.

13 **Q -- correct? Is that at your surgical center?**

14 A They would be at our surgical centers. We

15 don't do them at the hospital.

16 **Q At a surgical center, do you have more**

17 **equipment? I mean -- I don't know. Do they have more**

18 **equipment, more backup and support than regular medical**

19 **facilities or is it the same?**

20 A I don't think it's the same, but I don't

21 think you can draw a standard there's more here and less

22 here. I think it depends on the case.

23 **Q Just depends on the case?**

24 A I think so. I have a lot of support in some

25 cases at the hospital where I deal with big ones, and I

1 have very little support at small cases I do at other
2 places, and I do small cases at the hospital, so it
3 depends.
4 **Q Okay. Do you do all -- Since you've been**
5 **here in Nevada, all of your services have either been in**
6 **the surgical center or the hospital?**
7 A Yeah. There are some plastic -- yeah. Yeah,
8 all of my cases.
9 **Q Is the surgical center, is that part of you?**
10 **Are you one of the owners or the directors?**
11 A No, I'm not an owner.
12 **Q You're just like an independent contractor?**
13 A No.
14 **Q Employee?**
15 A It depends on the situation. When I was a
16 physician with Carson Tahoe Group, we were independent
17 contractors. Now I work for a big group that has a
18 contract with the surgery center, so I'm not -- I'm just
19 underneath that contract.
20 **Q I see. You work for a company and that**
21 **company has a contract?**
22 A Provides service for the surgery centers
23 currently. Yes.
24 **Q And on propofol, there's a machine that**
25 **infuses? Is that how it works?**

1 A Uh-huh. There are pumps that we can use to
2 infuse propofol.
3 **Q And sometimes have you ever just oversaw an**
4 **R.N. who --**
5 A I don't --
6 **Q -- or in your particular case, you're the one**
7 **who actually does it?**
8 A Yeah, and it depends. Hospitals have
9 different rules about who can give propofol and in what
10 situations they can give propofol. I've never supervised
11 an R.N. giving propofol.
12 **Q Okay. On this one sheet page 2552 --**
13 A Yes, sir.
14 **Q -- is it fair to say that according to the**
15 **vitals, the patient was stable the whole time?**
16 A Yes.
17 **Q Okay. And 500 cc's, when you go and give**
18 **blood at a blood bank, is that 500 cc's?**
19 A What's the typical amount of blood in a blood
20 bank?
21 **Q Like when they -- I'm trying to equate what**
22 **500 cc's --**
23 A Donate blood?
24 **Q Yeah, when you --**
25 A I don't know anything about --

1 **Q -- donate blood.**
2 A -- donating blood. Sorry.
3 **Q You don't know what the typical amount a**
4 **person --**
5 A When we transfuse in the bag?
6 **Q No, who is donating blood --**
7 A I wouldn't have the faintest idea.
8 **Q Okay. When you said that Flumaze -- What is**
9 **it called? Flumazelin?**
10 A Flumazenil.
11 **Q Flumazenil?**
12 A Uh-huh.
13 **Q That's a reversing agent, right?**
14 A For benzodiazepines. Correct.
15 **Q And you've only used it like a handful of --**
16 A Correct.
17 **Q -- times? Are there doctors that you know**
18 **that use the reversing agent more times?**
19 A I can't speak to that. It's not something I
20 talk to --
21 **Q Not something that you talk about. It's just**
22 **what your practice is?**
23 A It's just what I know about my practice.
24 **Q And is the reversing agent to counteract and**
25 **wake the person up?**

1 A Essentially.

2 **Q Is that how it works?**

3 A Something like that. Yeah.

4 **Q Okay. And you were talking about a mental**

5 **eval. Is that where you start conversing with the person**

6 **and see if they're talking back and --**

7 A It can be as informal as that or it can be

8 more formal. We have formal measures for mental

9 alertness, and we have informal ones, and I think it

10 depends on the clinical situation which one you would --

11 **Q It depends on the case, the location, the**

12 **clinical situation --**

13 A I'd say it doesn't depend on --

14 **Q -- what procedure --**

15 A -- location --

16 **Q -- the type of case, all of that stuff,**

17 **right, and what the procedure is?**

18 THE REPORTER: I'm sorry. One at a time,

19 please.

20 THE WITNESS: Say that again. Sorry.

21 **Q (BY MR. FLANGAS:) I don't know. Basically,**

22 **I think what you said is: Look. You could have a formal**

23 **mental state evaluation?**

24 A Okay.

25 **Q You could have an informal mental state**

1 **evaluation. You could have an informal mental state**
2 **evaluation.**
3 A I would say that depends on the patient and
4 the specific situation with the patient.
5 **Q Okay. And the whole purpose is to make sure**
6 **that the patient is alert and oriented and not showing**
7 **any distress?**
8 A No, it's more than just distress. If they're
9 not alert and oriented, that could be a sign of other
10 catastrophic things that are happening with the patient.
11 **Q Right. And if they're alert and oriented,**
12 **then that's what you tried to determine on the mental**
13 **state?**
14 A Yeah. Broadly speaking, yes.
15 **Q Okay. And I think finally, when we first**
16 **started the questioning, it was, you know, do you know**
17 **what type of licensing a facility would know? And you**
18 **have no idea?**
19 A Yeah, I've never -- I do not know the laws or
20 rules and regulations for a licensing facilities.
21 **Q Right. As you said right now, you wouldn't**
22 **know how to even figure that like if you encountered like**
23 **how you would figure that out except, I guess, read the**
24 **statutes?**
25 A Yeah. Yeah, I mean, no. I wouldn't have --

1 I mean, I've never been in a position where I've wondered
2 if a facility I worked at was -- it wouldn't be the first
3 thing on my list, and it's something I've never done.
4 **Q All of the facilities you've worked at, have**
5 **you ever went up to them and said: Hey, I want to see**
6 **your licensing?**
7 A Absolutely not.
8 **Q That doesn't happen?**
9 A No.
10 **Q You just look around, and if there's other**
11 **doctors and they have a good reputation, you assume**
12 **they're licensed?**
13 A Yeah, that's part of it for sure. Yeah.
14 MR. FLANGAS: Okay. That's all.
15 MR. WHITE: I have some quick follow-ups.
16
17 REDIRECT EXAMINATION
18 BY MR. WHITE:
19 **Q Doctor, I'm going to go right with the**
20 **questioning you were asked. Do you have any reason to**
21 **look into whether Renown has a license to do anesthesia?**
22 A No.
23 **Q What about SCOR?**
24 A I have no reason to look there either.
25 **Q Okay. Have you mostly worked in hospital**

1 **situations?**

2 A Mostly. I've worked in a few surgery

3 centers, but most of my practice has been hospital

4 based.

5 **Q Have you ever worked in a med spa?**

6 A No.

7 **Q I want to ask you about what would happen if**

8 **you saw this Patient TTT had a problem and the ambulance**

9 **was called. That is also not in dispute. Those are**

10 **facts that are not in dispute, okay. In fact,**

11 **Dr. Phillips told somebody to call an ambulance because**

12 **she fell down in the parking lot --**

13 A Okay.

14 **Q -- or couldn't get into the car. Do you want**

15 **to object?**

16 MR. FLANGAS: Yeah.

17 MR. WHITE: Go ahead.

18 MR. FLANGAS: I was waiting. Don't get

19 impatient with me, Don. Just want to object. Goes

20 beyond my cross. I didn't go into that.

21 HEARING OFFICER WOODMAN: And I get that.

22 But again, other than the general rule that we're relaxed

23 here on evidentiary standards, I think there is a rule

24 that eliminates, in administrative cases, it eliminates

25 that scope issue.

1 MR. FLANGAS: Okay. Well, then, it's
2 leading. It's a hypothetical leading, so, I mean, if --
3 HEARING OFFICER WOODMAN: So let him get the
4 question out.
5 And then before you answer, Dr. Janes, I'll
6 weigh in.
7 **Q (BY MR. WHITE:) I'll lay a foundation. Have**
8 **you ever had one of your patients have a syncopal event**
9 **after they come out of anesthesia?**
10 A Possible, but I can't remember. Yeah. It
11 would be possible, but I can't remember. I've done tens
12 of thousands of anesthetics.
13 **Q Yes or no. It's a yes-or-no question. Do**
14 **you have any kind of process in place that you would**
15 **follow if somebody had a syncopal event at your facility**
16 **or the facility you're working in?**
17 A One of my patients?
18 **Q Yes.**
19 A Absolutely.
20 **Q And what would that be?**
21 A Immediately go to their bedside and evaluate
22 them myself personally, do a quick physical exam, check
23 out their vitals, mental status exam.
24 **Q I asked you before if you're Board certified.**
25 **You said you are?**

1 A Correct.

2 **Q How many doctors are in your group -- I think**

3 **Mr. Flangas asked you that you were in a like in a**

4 **third-party group and you get hired out from there to --**

5 A In the big group here in Reno, there's 50 to

6 60 of us currently.

7 **Q If you know, are any of them not Board**

8 **certified? Only if you know.**

9 A I don't know the answer to that.

10 MR. WHITE: That's all I have.

11 HEARING OFFICER WOODMAN: Recross?

12 MR. WHITE: Pass the witness.

13 MR. FLANGAS: No.

14 HEARING OFFICER WOODMAN: Thank you very

15 much, Dr. Janes. We appreciate your time here today.

16 THE WITNESS: You're welcome. I appreciate

17 you guys.

18 HEARING OFFICER WOODMAN: You are good to go.

19 MR. WHITE: Oh, one question. Sorry.

20 THE WITNESS: Sure.

21 HEARING OFFICER WOODMAN: That's a lawyer

22 move right here.

23 **Q (BY MR. WHITE:) That's a typical law**

24 **enforcement move. Do you consider -- it's a typical law**

25 **enforcement move, but you had said that at some point**

1 **that standard of care was not met, especially with the**
2 **monitoring, every -- not every five minutes?**
3 A Yeah, that's in my report.
4 **Q Do you consider that malpractice?**
5 A Given the definition you provided me of
6 malpractice the Board gives me, yes. I don't -- there
7 may be other definitions out there, but --
8 **Q Would you like me to refresh your memory with**
9 **that?**
10 A Yeah.
11 **Q With the reading of it?**
12 A I put it at the beginning of every report
13 because I assume there are different kinds of
14 malpractice.
15 **Q There is. The standard is different for**
16 **administrative law than it is for civil. Yeah.**
17 **Malpractice, as defined in NAC 630.040, defines**
18 **malpractice as the failure of a physician in treating a**
19 **patient to use the reasonable care, skill or knowledge**
20 **ordinarily used under similar circumstances.**
21 A Yes.
22 **Q Would you consider this malpractice?**
23 A Yes, I believe there were more than one
24 instance in this case that failed to meet -- that met
25 that definition --

1 **Q If you can --**

2 A -- that failed to --

3 **Q -- remember besides the monitoring, what else**

4 **was there?**

5 A Well, I think the one thing I said

6 postoperatively, I think my biggest issue I had with this

7 case was the postoperative care that they were giving

8 medicine to reverse sedation, and I didn't see any mental

9 status exam. I didn't see that anybody -- I didn't see

10 anything that was how is this patient doing? Are they

11 talking? Are they incoherent? Do they know who they

12 are, where they are?

13 I didn't see the kind of information that I

14 would expect of somebody that's outside of normal

15 practice when we're reversing sedation medicine. So when

16 you're outside of the scope of practice, then there needs

17 to be more done, and that would include at least basic

18 notes on that if not a full examination by a physician

19 who is responsible.

20 **Q Is it possible for -- Mr. Flangas -- I'm**

21 **going to back this up. Mr. Flangas asked you some**

22 **questions about her stability and her, you know, her**

23 **respiration?**

24 A Yes.

25 **Q And you had answered she was stable?**

1 A Correct.

2 **Q So my question is: Is it possible for**

3 **somebody to be stable but still need a reversal agent and**

4 **also need a mental status exam after that?**

5 A Absolutely.

6 **Q Both those can happen at the same time?**

7 A Oh, absolutely. Yeah.

8 MR. WHITE: That's all I have.

9 HEARING OFFICER WOODMAN: Anything else,

10 Mr. Flangas?

11 MR. FLANGAS: Just one question.

12

13 RECROSS EXAMINATION

14 BY MR. FLANGAS:

15 **Q You're assuming that the mental status**

16 **exam -- whether formally or informally -- wasn't given**

17 **based on the fact that's not written down here.**

18 A Basing that on the fact that in all of the

19 papers I reviewed, I did not see it.

20 **Q Right. It's not written down on any of the**

21 **papers you reviewed?**

22 A That's correct, sir.

23 MR. FLANGAS: Okay. Great. That's all.

24 MR. WHITE: That's all. I have nothing else.

25 HEARING OFFICER WOODMAN: This time we're

1 going to really let you go.
2 THE WITNESS: I understand. I appreciate you
3 guys.
4 HEARING OFFICER WOODMAN: Thanks much for
5 carving some time out for us.
6 THE WITNESS: My pleasure.
7 HEARING OFFICER WOODMAN: So here's a
8 question I have for you.
9 (WHEREUPON, an off-the-record discussion ensued.)
10 MR. FLANGAS: We were talking about the
11 renewal, and if you want, you know, if that's from your
12 website, you want me to stipulate to put it in, I don't
13 have -- I don't care.
14 MR. WHITE: It's not from the website. It's
15 from the -- it's like our --
16 HEARING OFFICER WOODMAN: Probably just the
17 only people who can probably access that are licensees,
18 right?
19 MR. WHITE: Yeah. Well, it's called open
20 regulate, and it is our operating system kind of. And so
21 but it works for licensing, it works for --
22 HEARING OFFICER WOODMAN: Renewals?
23 MR. WHITE: Yeah, for just about everything.
24 So this is -- you can see at the bottom, it says "Open
25 regulate" on it.

1 MR. FLANGAS: So if we went on the website,
2 it would show she was suspended. Would it show that she
3 renewed it or no?
4 MR. WHITE: I don't know if it will show when
5 she renewed. I looked for it before, but I got
6 sidetracked. I don't think it shows a date of renewal.
7 It would just show expired.
8 MR. FLANGAS: She just texted me right now.
9 "They have me waiting here at the desk."
10 HEARING OFFICER WOODMAN: Dr. Belsky, my name
11 is Charles Woodman. I am the hearing officer assigned to
12 this case. I'll give you a quick rundown. Can you see
13 this room with the big massive table covered in paper?
14 Can you see that on your monitor there?
15 THE WITNESS: Yeah.
16 HEARING OFFICER WOODMAN: Okay. The attorney
17 who has called you is sitting across from me,
18 Mr. Flangas. His client is to his right, Dr. Phillips.
19 To her right is their associate for Mr. Flangas,
20 Ms. Smith, and then over here sitting next to me is
21 Mr. White. He is the attorney for the Medical Board.
22 So the way that we'll do this is we'll begin
23 by Mr. Flangas getting to ask you questions. He may be
24 referring you to some of the exhibits in those binders.
25 We'll try and help you out when we get to that point.

1 And after Mr. Flangas asks you questions, then Mr. White
2 for the Medical Board will get to do that.
3 Are you ready to proceed? When you are, I'm
4 going to have the court reporter swear you in. Are you
5 ready to go or do you have any other questions or
6 anything you want to address first?
7 THE WITNESS: I am ready.
8 HEARING OFFICER WOODMAN: If you'll raise
9 your right hand, our court reporter will swear you in.
10
11 MARJORIE BELSKY,M.D.,
12 having been first duly sworn, was
13 examined and testified as follows:
14
15 HEARING OFFICER WOODMAN: Thank you, ma'am.
16 Mr. Flangas, as soon as you're ready.
17
18 DIRECT EXAMINATION
19 BY MR. FLANGAS:
20 **Q Dr. Belsky, can you please state your name**
21 **for the record and spell it.**
22 A Marjorie Belsky. M-A-R-J-O-R-I-E. B, as in
23 boy, E-L-S-K-Y.
24 **Q Okay. Dr. Belsky, I'm going to -- I want you**
25 **to go through quickly because just go through your**

1 **education and what memberships you have, experience, just**
2 **in general for maybe three, four, five minutes, and**
3 **whether you've testified in cases. As a matter of fact,**
4 **I'll refer you to Exhibit P. It should be up there. It**
5 **should be the binder to your left and it's -- yeah. What**
6 **does that state? Trial binder?**
7 A I've got it right here: My CV.
8 **Q Your CV. Okay. Great. So can you, just for**
9 **the record, go through your education and your experience**
10 **and licensing, etcetera?**
11 A Of course. I completed my undergraduate
12 education at Emory University with a Bachelor's degree in
13 biology and Bachelors of Science and also a degree in
14 history. And then I completed a Master's degree at Toro
15 University in New York in health sciences. I then went
16 to medical school at the Technion in Haifa, Israel, and
17 then I proceeded to complete an internal medicine
18 internship at Jersey Shore Medical Center in New Jersey.
19 I then completed my anesthesiology residency
20 at UC-Irvine, and I completed an interventional pain
21 management fellowship at UCSF. And then currently, I am
22 at the University of Las Vegas School of Law. The
23 specialty is intellectual property, and I am entering my
24 second semester of my final year.
25 **Q Okay. Great.**

1 A And then --

2 **Q Go ahead.**

3 A Oh, I was just -- you asked for a little bit

4 more as far as memberships. So, well, currently, the

5 past two years, I've given talks at Becker's Healthcare

6 about surgery centers, and I was the owner of several

7 different surgery centers in the past, specifically, one

8 for the past ten years that I co-owned with a spine

9 surgeon in Las Vegas: Mako. And I've owned my own

10 medical practice for since 2006, specializing in

11 interventional pain management.

12 And I so I am Board certified by the American

13 Board of Anesthesiology, specifically in pain management.

14 I did not recertify in anesthesiology because I'm

15 primarily in pain management, but I did recertify in pain

16 management. So I am still Board certified by the

17 American Board of Anesthesiology.

18 **Q Okay. And you're an anesthesiologist of**

19 **course, right?**

20 A I am.

21 **Q Okay. And then you've also, in your CV,**

22 **you've done multiple presentations, lectures, and you've**

23 **also testified as an expert since 2009. Is that correct?**

24 A That is correct. Yes. I have my deposition

25 history here. Generally, I was the treating physician in

1 these cases because these are personal injury cases, so I
2 was the treating physician where these patients were
3 involved in some type of tort action, mostly motor
4 vehicle accidents. And I've had, I think, it's about 18
5 trial appearances.
6 MR. FLANGAS: Okay. I'm going to move to
7 admit Exhibit P.
8 MR. WHITE: I have no objection.
9 HEARING OFFICER WOODMAN: All right. Then P
10 is admitted.
11 **Q (BY MR. FLANGAS:) Okay. I'm going to direct**
12 **your attention, Dr. Belsky, to Exhibit 102. That would**
13 **be the Vida Spa records. You might have brought the Vida**
14 **Spa records with you, so you could look at 102 and make**
15 **sure that's what you have.**
16 MR. WHITE: I would object. I would actually
17 prefer that she look at what's in the binder.
18 MR. FLANGAS: What's in the binder?
19 MR. WHITE: Yeah, it because it's the same
20 for everybody.
21 **Q (BY MR. FLANGAS:) Okay. Exhibit 102.**
22 A I am there.
23 **Q Okay. Great. Can you review those documents**
24 **and tell me if you recognize them and if you've reviewed**
25 **them before?**

1 A I have reviewed Section 102.

2 **Q Okay. And we'll call that Exhibit 102.**

3 **That's the Vida Spa medical records, okay?**

4 **So let's see. Can you tell me -- I talked to**

5 **you over the phone yesterday and today, and so I'm going**

6 **to just direct your attention to certain topics or**

7 **opinions -- or not opinions -- testimony that was made.**

8 **And I want you just to elaborate what your opinion is on**

9 **all of this stuff. Okay?**

10 A Understood.

11 **Q Let's talk about Flumazenil. Can you tell**

12 **the Hearing Master what that is, who uses it, why you use**

13 **it and your impressions regarding that being something**

14 **that was used in this liposuction case?**

15 A So Flumazenil is a medication that is used to

16 reverse benzodiazepines. It can be short acting in

17 nature as in the risk could be that basically one might

18 revert back to a sedated type of effect. I see -- and

19 it's in front of us within the anesthetic record -- that

20 Midazolam, which is prescribed, and it's a short-acting

21 benzodiazepine used for -- this is really used for

22 relaxation, and that four milligrams were given IV. The

23 reversal was given almost four hours later.

24 The half-life of Versed is about 1.5 to 2.5

25 hours, so generally, that would have worn off by the

1 point that the Flumazenil was given. But when I looked
2 at this, it seems that it may have been Dr. Phillips'
3 preference to give the Flumazenil almost as an extra step
4 because there's not any harm in giving this as well.
5 MR. WHITE: I'm going to object to this part
6 of the answer as in that calls for the speculation,
7 trying to think what Dr. Phillips is thinking.
8 HEARING OFFICER WOODMAN: That part of the
9 objection I have to sustain, but you can rehabilitate
10 there.
11 **Q (BY MR. FLANGAS:) Okay. So Flumazenil, it's**
12 **when you're looking at it, Dr. Phillips gave it; correct?**
13 **Can you tell us -- You said there's no negative effects**
14 **with giving it; is that correct?**
15 MR. WHITE: Objection, leading.
16 MR. FLANGAS: That's what she said.
17 MR. WHITE: I'm just --
18 **Q (BY MR. FLANGAS:) Okay. Tell me if there's**
19 **any negative effects in giving it.**
20 A So I think to try to explain a little bit
21 better, all medications carry risks. One of the risks
22 with Flumazenil could be seizure, but this is an
23 extremely low risk. The idea with giving Flumazenil
24 would be to minimize any effects left from the
25 benzodiazepines.

1 **Q And how does it minimize them? I mean, what**
2 **does it allow the patient to do? Become more alert or --**
3 A So it would act as a reversal agent to the
4 benzodiazepines. And because the benzodiazepine, the
5 Midazolam, the Versed, would have caused sedation,
6 drowsiness, it would act to negate that. And yes, it can
7 cause more alertness if there was any type of drowsiness.
8 **Q Okay. You testified the Midazolam, that was**
9 **given almost four hours before; correct?**
10 A Yes.
11 **Q And you said that's a short-acting**
12 **medication?**
13 A Yes, to for comparison, something like Valium
14 would be a long-acting type of sedative. This is a
15 shorter-acting sedative, but it also depends how much is
16 given. So a small dose might be one milligram on
17 generally when I see like a MAC anesthesia because this
18 is a monitored anesthesia case, two to four milligrams
19 would be a moderate dose.
20 **Q Okay. Does the records, the very fact that**
21 **Flumazenil was given, does that indicate anything at all**
22 **as maybe the patient, there's something wrong with the**
23 **patient?**
24 A No. I see it as physician preference.
25 **Q Okay. Do you know physicians who give**

1 **Flumazenil?**

2 A I have reviewed many charts over the years at

3 different surgery centers because due to accreditation,

4 the charts have to be reviewed independently by other

5 physicians, and I have seen Flumazenil given.

6 **Q Okay. If I were to tell you that there was**

7 **testimony by doctors that Flumazenil is given very**

8 **rarely, how do you respond to that? I think you already**

9 **said it was a doctor's preference, but how would you**

10 **respond?**

11 A That doesn't tell me anything because it's

12 physician preference. Some physicians give nothing for

13 nausea. Some like to give three medications for nausea.

14 It's simply a physician preference without something

15 further in here. I don't see something documented or

16 something going on in the vital signs that tell me

17 anything other than physician preference.

18 **Q And so some physicians might not give it at**

19 **all, and some physicians might give it all the time. Is**

20 **that what you mean?**

21 A Right.

22 MR. WHITE: Objection, leading.

23 THE WITNESS: So anesthesia --

24 HEARING OFFICER WOODMAN: Misstatement.

25 THE WITNESS: -- is an art, and it really

1 depends on what the anesthesiologist wants to give at a
2 given time and what their preference really is.
3 **Q (BY MR. FLANGAS:) Okay. And --**
4 A I just don't see a negative here associated
5 with it. I see it as a preference. Like she could have
6 had down here some type of antiemetic. It doesn't mean
7 that the patient was vomiting. That can be her
8 preference to give one type of antiemetic, two or three.
9 **Q Okay. You were talking about the vital**
10 **signs. Can you tell us your impressions about the vital**
11 **signs in this chart --**
12 A Well --
13 **Q -- Bates stamped 2552.**
14 A The vital signs appear stable to me
15 throughout the anesthetic record here. They're generally
16 within 20 percent of baseline. That's usually what
17 you're looking for.
18 And a heart rate can't always be a predictor
19 with this type of procedure because the patient is
20 getting epinephrine in there which can increase heart
21 rate, but the point is still even from the baseline and
22 before the epinephrine was given, the heart rate is still
23 within 20 percent of initial heart rate. And when I look
24 at blood pressures, they're also still within 20 percent
25 of the initial blood pressures. And the oxygenation and

1 saturations are really stable throughout, as is the
2 respiratory rate.
3 **Q Okay. So you don't see any signs of distress**
4 **or abnormalities in the signs of heart rate, oxygen,**
5 **blood pressure, etcetera; correct?**
6 A I don't see anything that causes me concern.
7 I mean, if I look -- went through and looked at each
8 little individual systolic, sure, there's one systolic
9 that says 160, and that looks like that's after
10 liposuction was completed. But we don't want to look at
11 one single blood pressure. You look at trends. And so
12 when we look at the trend, outside of one single
13 systolic, they're within normal limits.
14 **Q Okay. What about the timing of measuring the**
15 **different body -- I forgot what you call it.**
16 HEARING OFFICER WOODMAN: Vital signs.
17 **Q (BY MR. FLANGAS:) Vital signs. How often --**
18 **Well, okay. First of all, let me ask you this. What's**
19 **your understanding of this procedure? When propofol was**
20 **administered, is the patient awake?**
21 A So this is a question that is difficult
22 because it divides conscious sedation and deep sedation,
23 but they still both fall under MAC, and it's a fine line.
24 This is not a general anesthetic. This is still fully a
25 monitored anesthesia care where the patient is breathing

1 on their own and is most likely verbal throughout.

2 **Q Okay. So most likely, the patient is**

3 **talking; correct?**

4 A They should be. They have -- this patient is

5 maintaining her own airways. She doesn't have an airway

6 in place, and her sats are excellent.

7 **Q Okay. So what's the timing as far as how**

8 **often is standard or reasonable for checking vitals in**

9 **this type of operation? This type of operation.**

10 A So this really depends on the type of the

11 facility and their procedure and policy. This was not a

12 general anesthetic because general anesthetics generally

13 would be every five minutes.

14 And I know under like triple AAAHC -- which

15 is a lot of the surgery centers here use that -- would be

16 every five minutes for a general anesthetic. But you

17 could also go up to 15 minutes and I see -- I have seen

18 anesthesia charts do -- they'll actually have like a

19 wider block. Here it's a smaller block -- and it's not

20 relevant, but here's a smaller block. But they'll

21 generally have a larger block for every 15 minutes. And

22 that's generally based on procedure and policy of the

23 facility that's being utilized. I wouldn't recommend

24 beyond 15 minutes, but it's the standard within our

25 community, and what I've seen on the charts that I see

1 between five and 15 minutes.

2 **Q Okay. And so when you say you've seen a**

3 **community, you said you've evaluated others. Other**

4 **medical facilities or surgical centers? You evaluate the**

5 **patient records?**

6 A So the outpatient surgery centers for their

7 certification like triple ACCHD or Medicare, I used to be

8 part of surgery centers Southern Nevada, and the nurses

9 would always have me look at the anesthesia records

10 because you have to maintain certification. Physicians

11 have to evaluate the charts of other physicians, and

12 there are certain criteria that have to be followed and

13 certain things like a checklist that has to be adhered

14 to.

15 And so I have looked through thousands of

16 charts that nurses say please look at these ten charts

17 before you leave this week. And so invariably, every

18 week, it's at Southern Surgery Center of Southern Nevada,

19 I review ten anesthesia charts for various different

20 types of surgeries.

21 **Q Okay. So you've looked at --**

22 A And I also worked at Flamingo Surgery Center,

23 and I've been at Sahara Surgery Center, and then

24 minimally invasive --

25 MR. WHITE: Objection. This is turning into

1 nonresponsive and narrative.

2 HEARING OFFICER WOODMAN: Overruled.

3 **Q (BY MR. FLANGAS:) Okay. And you said you've**

4 **seen charts that actually have imprinted on there**

5 **15-minute intervals. Is that correct?**

6 A Yes. Correct.

7 **Q And would that be a surgery center in Las**

8 **Vegas?**

9 A I have seen this in surgery centers in Las

10 Vegas. I have seen it in California where I was before

11 Nevada as well.

12 **Q Okay. So because it's not general**

13 **anesthesia, you would say it's within the standard**

14 **anywhere up to 15 minutes; correct?**

15 A Correct.

16 **Q Okay. I'm going to direct your attention now**

17 **to farther down on the page 2552 where it says: Patient**

18 **bled, plus, plus, plus, EBL equals 500 cc.**

19 A I would like to just add to the prior

20 testimony for one minute.

21 **Q Sure.**

22 A If there is --

23 MR. WHITE: Objection. There's no question.

24 HEARING OFFICER WOODMAN: So, ma'am, you need

25 to respond to a question. So if counsel asks you a

1 question, then you can go ahead and respond.

2 **Q (BY MR. FLANGAS:) Is there -- on the**

3 **questions I just asked you, is there any other testimony**

4 **that you could give to fully answer those questions?**

5 MR. WHITE: Objection. It's vague.

6 HEARING OFFICER WOODMAN: Overruled.

7 MR. FLANGAS: You can go ahead.

8 MR. WHITE: Calls for a narrative.

9 HEARING OFFICER WOODMAN: That's okay. She

10 knows what we're doing here.

11 THE WITNESS: It's okay.

12 HEARING OFFICER WOODMAN: You can answer,

13 ma'am.

14 THE WITNESS: Well, I was going to say that

15 yes, the standard is five to 15 minutes. If there's

16 issues, I have seen on the 15-minutes, if there's

17 something unstable in the vitals, they can convert to

18 five minute-intervals. There would have been no reason

19 in this chart because the vital signs are stable.

20 **Q (BY MR. FLANGAS:) Okay. Thank you. So I'm**

21 **going to direct your attention to the page where it says:**

22 **Patient bled, plus, plus, plus EBL equals 500 cc.**

23 A Correct.

24 **Q Can you tell me what that means and your**

25 **impressions regarding that as far as this patient?**

1 A Well, I don't know what they mean by or who
2 wrote: Patient bled, plus, plus, plus. All surgeries
3 have an EBL. And here it says: EBLs 500 cc's which
4 would be fairly standard for tumescent liposuction.
5 **Q Did you actually estimate the blood loss from**
6 **this chart?**
7 A I did.
8 **Q Can you tell me?**
9 A Well, no. I estimated fluid replacement from
10 this chart.
11 **Q Okay. Can you explain to the Hearing Master**
12 **what that means and what it is and how you analyze that?**
13 A Yes. I'm going to go through it slowly. So
14 when a patient undergoes a procedure that involves some
15 types of fluid shifts, which this can involve fluid
16 shifts, generally you would want to replace the fluids
17 from the NPO status, which means, for example, the
18 patient generally is instructed not to eat or drink eight
19 hours ahead. So generally after midnight.
20 And the way that starts is it's always like
21 it's four cc's for the first ten kilos, two cc's for the
22 next, one cc beyond that. So basically, Ms. (Name
23 deleted), she weighs about 63 kilos. Due to her -- we'll
24 say her fasting status, she would have needed one liter
25 of fluid.

1 Then as far as maintenance, she's about 100
2 cc's per hour, so maybe about 400 cc's. So we're at 1.1
3 cc's that need to be replaced at this point for not
4 eating and along the time frame of the procedure. Then
5 blood loss is generally three times. And if it's 500
6 cc's, you would do three times that. So we're at where
7 we would need three liters.
8 The difference here is that when they get the
9 tumescent, they are getting three liters already and then
10 it's being reabsorbed within the body itself. And you
11 have to be really careful with this type of procedure
12 because the three highest risks of complications and
13 death with tumescent liposuction is lidocaine toxicity,
14 pulmonary edema, and a PE, which is an embolus. And so
15 as far as the pulmonary edema, there are many documented
16 cases of this, and it's due to fluid overload. So
17 basically, this patient was three liters short. This
18 patient, (name deleted), got three liters in tumescent --
19 MR. WHITE: Can we strike that?
20 THE WITNESS: -- which is equal.
21 HEARING OFFICER WOODMAN: Just one second.
22 So just so you know, Doctor -- and you didn't know this.
23 We didn't tell you this. So we keep the patient name out
24 of the record, and we're referring to this patient as
25 Patient TTT as in triple T like Tom. So any time you're

1 inclined to use the patient's name, just use Patient TTT
2 if you would, please.
3 THE WITNESS: I apologize.
4 HEARING OFFICER WOODMAN: Not a problem. You
5 didn't know. And we interrupted you, and I was really
6 following your flow. So you can continue with it.
7 MR. WHITE: Just make sure it's stricken.
8 THE WITNESS: I'll try to be respectful. So
9 I'll just refer to her as the patient. So basically, you
10 have an even fluid balance here. You never don't want to
11 give extra.
12 The only other piece missing to be really
13 specific is so for aspiration, you usually lose about 10
14 percent. So here, we're looking at 300 to 400 cc. That
15 would be the only deficit here. This is really a minimal
16 deficit. You wouldn't make up for that deficit in this
17 type of procedure because we want to err a little bit on
18 the hypovolemic side, like a little less fluid because we
19 don't want pulmonary edema.
20 And then, I mean, just to give a comparison,
21 if I were to go give blood today, they'd take about a
22 half liter off, so 500 cc's. And they don't give me that
23 back. So this patient was short even less than that 500
24 cc's. She was really just in a 300-to-400 cc range, and
25 that would be perfect for this type of surgery. Is that

1 clear enough?

2 **Q Yeah. So let me ask you when based on this**

3 **charge, is there -- let me see. How should I -- Do you**

4 **see, based on this chart, any -- Well, actually, let's**

5 **talk about two more things. I'm sorry. So you see up on**

6 **top of the chart where it's written 4:30 p.m.: Talk to**

7 **E.R.? Do you see that language there?**

8 A Yes, I do.

9 **Q Patient was stable. Recommended some fluids.**

10 **IV. Blood pressure 98 over 65. Do you see that?**

11 A I do.

12 **Q Okay. So what does that mean to you in**

13 **regards to what occurred with this patient, if you know**

14 **if that's accurate.**

15 MR. WHITE: Objection, calls for speculation.

16 **Q (BY MR. FLANGAS:) Okay. What does it mean**

17 **that, you know, at 4:30 p.m., that the E.R. doc was**

18 **talked to and she was stable and she was just given**

19 **fluids?**

20 A I don't have any hospital records, and so I

21 don't want to guess. I don't want to sound flip either,

22 but it sounds -- I mean, I do know that at some point,

23 because it is actually contained in these records.

24 There's like a paragraph that said like patient didn't

25 feel well and when she was leaving felt faint and drowsy

1 and was transported to the hospital. So I have that
2 understanding.
3 But it means to me that my understanding is
4 that this is Dr. Phillips because it looks like I thought
5 that might have been her handwriting. It could have also
6 been a nurse. I can't say with certainty, but somebody
7 talked to an emergency room doctor, and they were
8 informed that the patient was stable and the discussion
9 surrounded giving some IV fluids based on a blood
10 pressure at 4:30 p.m.
11 **Q Okay. What about down below where it said --**
12 **where it's written anesthesia sent to E.R.? Patient --**
13 **does that say faint or and drowsy? It says something.**
14 **Tolerated fairly significant bleeding. Vessel dilation,**
15 **LLQF suction. What does that mean?**
16 MR. WHITE: What does what mean? It's a
17 pretty vague question. I would object.
18 MR. FLANGAS: I'm asking what it means to
19 her.
20 MR. WHITE: But you just read a paragraph.
21 What are we asking her what means?
22 **Q (BY MR. FLANGAS:) Okay. It says anesthesia**
23 **-- What does that mean to her: Anesthesia sent to the**
24 **E.R. Patient -- I don't know what this word is. I'm**
25 **trying to find out if she knows what that means and**

1 **drowsy. Tolerates fairly significant bleeding.**
2 **Vasodilation. LLQF suction.**
3 HEARING OFFICER WOODMAN: Do you see at the
4 bottom of the page where he's referring you to, Doctor?
5 THE WITNESS: I do. And he's asking me my
6 interpretation of this.
7 HEARING OFFICER WOODMAN: Can you read it
8 all?
9 THE WITNESS: I can. It says: Anesthesia
10 sent patient to E.R. Patient complained of faint and
11 drowsy. Tolerated fairly. I'm thinking it probably said
12 "well" under there, but I don't know. And then it says:
13 Significant bleeding, vasodilation.
14 I couldn't tell you why they think there's
15 vasodilation because I don't know what they're basing
16 that statement on. And then the LLQ is left lower
17 quadrant, no suction. I don't know what the significance
18 of that is, but that has to do with surgical aspects not
19 anesthetic aspects.
20 **Q Okay. In a type of surgery like this, should**
21 **there be an electrical cardiogram being hooked up to the**
22 **patient? Does it matter? Should it happen? Should it**
23 **not happen? What's your opinion on that?**
24 A So I don't know what the preference is of a
25 three-lead EKG. She could have a three-lead EKG during

1 this. Sometimes they'll include a strip. Sometimes they
2 won't. I would just be guessing. There's not a strip
3 here. I don't know what's going on with that. But it
4 appears that the patient was hemodynamically stable
5 throughout. The strip would just show more like was
6 there an MI heart attack/cardiac sentinel event, and
7 that's not my understanding of what is at issue here.
8 **Q Okay. Is it below standard not to have an**
9 **electrocardiogram for this type of operation or does it**
10 **-- is it reasonable to have this type of operation**
11 **without electrical cardiogram?**
12 A So I don't know if you're asking about a
13 preop five lead or the intraop three lead, but as far as
14 preop or preop clearance, five lead, the American College
15 of Cardiologists came out in January of '21 and suggested
16 that -- well, they actually made a strong statement that
17 they no longer recommended preop EKG's in otherwise
18 healthy, low cardiac --
19 MR. WHITE: Objection --
20 THE WITNESS: -- risk patients because it led
21 to needless consults, changes and delays.
22 MR. WHITE: I'm going to object. What are we
23 working off of here? Do we have this article, Doctor?
24 THE WITNESS: It's under the American College
25 of Cardiologists. Yeah.

1 MR. WHITE: Is it part of our evidence?
2 MR. FLANGAS: No.
3 MR. WHITE: Okay.
4 MR. FLANGAS: This is something that I asked
5 her about the EKG just about 30 minutes ago.
6 MR. WHITE: Yeah, but --
7 MR. FLANGAS: And so obviously she now and --
8 MR. WHITE: Can we stay within the realm
9 maybe of I guess I'd like Commissioner Woodman --
10 THE WITNESS: I can simplify this. I could
11 just say it's surgeon preference for preop clearance.
12 MR. WHITE: Can we stay within the realm of
13 anesthesiology here and liposuctions? I don't know what
14 she's referring to as far as the American Society of
15 Cardiology.
16 THE WITNESS: I'll make it simpler. So
17 generally, the surgeon is the one who gets the preop
18 clearance. Then it's given to the anesthesiologist can
19 make their own decisions as well. Is it sufficient? Do
20 they want something more? And so it's up to the
21 anesthesiologist and the surgeon if they want that EKG or
22 they do not, the five lead on an otherwise healthy
23 patient. And this is in an otherwise healthy
24 42-year-old. I don't see the utility in a five-lead EKG
25 preop.

1 HEARING OFFICER WOODMAN: Are you going to
2 ask about the intraop EKG?
3 **Q (BY MR. FLANGAS:) Yeah. What about the**
4 **intraop EKG? Is that something that is necessary to have**
5 **for this type of surgery or is it okay not to have it?**
6 A I believe this is up to the anesthesiologist
7 for this section for the three leads. I generally well,
8 see, I wouldn't see that in the chart actually. You
9 don't have to have this for other anesthesia care. You
10 would really need this for a general. So this is really
11 between the surgeon, the anesthesiologist and the
12 stability of the patient.
13 **Q Okay. So just depends?**
14 A They may have had one and they didn't attach
15 a strip. I just don't know.
16 **Q You just don't know?**
17 A Right. I don't know.
18 **Q Okay. So let me ask you this, Dr. Marjory --**
19 **Dr. Belsky. After reviewing the medical records, you are**
20 **aware that the patient was discharged, went down to the**
21 **car and then there was what do you call it again? A**
22 **syncopal. Can you profess your opinion on whether it was**
23 **-- do you see any malpractice in releasing her and your**
24 **opinion on what you think happened? And I'll leave it at**
25 **that.**

1 A So I don't see negligence or any type of
2 malpractice, which would be negligence, in the release.
3 The surgery, it looked like liposuction time ended at
4 1:13, and then they had vitals through 1:50. At 1:50,
5 her sats were 99 percent, blood pressures were stable and
6 heart rates and respiratory rates.
7 It states that she was able to -- I mean, she
8 must have been able to ambulate because it says walking.
9 She was able to verbalize and she was awake. Yeah, she
10 was awake, alert and oriented. And so you do want the
11 patient moving afterwards. Like I discussed before, one
12 of the risks is pulmonary embolism. You want the patient
13 to get up and start walking around. So this is good that
14 she's up walking around.
15 Vital signs were stable. I don't see good
16 reason why she should have been kept supine in a bed.
17 And then I like how it was managed after that. The
18 anesthesiologist, Dr. Phillips, said call 911. I am not
19 going to just manage this in a parking lot. I am going
20 to get home. And that's excellent.
21 **Q Is there any indication from this chart prior**
22 **to this syncopal event in the parking lot that would have**
23 **given any indication that something was going to happen**
24 **or, you know, you could predict that this might occur or**
25 **give any type of concern?**

1 A There's nothing that gives me concern before
2 the paragraph on 2551 because I believe the writings that
3 say 4:30 p.m. at the top of 2552 and the writing where it
4 says anesthesia sent patient to E.R. at the bottom of
5 2552 was written after this event occurred. So I don't
6 see any other indications.
7 **Q Okay. Would it be fair so say it just looks**
8 **like another successful surgery with a stable patient --**
9 A Yes, I think.
10 **Q -- from the chart?**
11 A It looked -- when I looked at this, I thought
12 this patient is going to look really good after this, and
13 she had really good anesthetic care.
14 MR. FLANGAS: Okay. Thank you. That's all.
15 HEARING OFFICER WOODMAN: All right. So
16 Dr. Belsky, Mr. White now, the attorney for the Medical
17 Board, will have the opportunity to ask you questions.
18
19 CROSS-EXAMINATION
20 BY MR. WHITE:
21 **Q Dr. Belsky, how many times have you given a**
22 **patient Flumazenil?**
23 A I have given Flumazenil over the years. It
24 would be conjecture to guess. It's not something I
25 personally regularly do, but I can't give you an exact

1 number. I would be guessing.

2 **Q But I'd like something. Ballpark would be**

3 **nice.**

4 A Well, I can't -- Over years?

5 **Q Sure. How long have you been an**

6 **anesthesiologist?**

7 A Well, I've been an anesth -- I finished my

8 residency in '90 -- I finished my residency in 2002, but

9 I'm not generally the one doing the anesthesiology. I

10 mean, I used to do anesthesiology in the capacity of the

11 anesthesiologist. Now I am --

12 **Q Let me slow you down. Let me stop you.**

13 **Sorry. When was that and for how long were you actually**

14 **an anesthesiologist doing what we're talking about today?**

15 A So that was for three or four years. And

16 then as far as actually still -- I still do conscious and

17 deep sedation, and my patients get conscious and deep

18 sedation. And I use an anesthesiologist for that.

19 **Q Oh, you don't do it yourself?**

20 A Because I'm in the capacity of the pain

21 management physician and I'm reviewing charts too.

22 **Q You said for three or four years, you --**

23 A Yes.

24 **Q -- actually hands-on anesthesiologist?**

25 A Yes.

1 **Q What years were those?**
2 A So that was about 2000 to 2004 or '05.
3 **Q And how many times during that time, if you**
4 **can remember, did you use Flumazenil?**
5 A I can't give you just a number.
6 **Q More than one?**
7 A Yes, more than one.
8 **Q More than five?**
9 A I would think more than five times.
10 **Q More than ten?**
11 A I'd just be guessing.
12 **Q So somewhere between five and ten?**
13 MR. FLANGAS: I'll object. Speculation.
14 **Q (BY MR. WHITE:) So somewhere between five**
15 **and ten possibly?**
16 A No, it could be more, but I would just be
17 guessing for you. It just wasn't like a habit of mine.
18 Like I tried to explain about the habits with the nausea
19 or the antinausea drugs. People have different
20 preferences. It's not something I was attached to.
21 **Q It sounds like you did use it liberally**
22 **though, prescribe it or use it liberally, right?**
23 A I don't recall -- you're using that word. I
24 wouldn't use the word "liberally". I would just say it
25 wasn't -- so physicians have certain ways. We all have

1 our preferences and ways of doing things. It wasn't
2 something I was attached to. I was someone who liked to
3 give antiemetics, but everybody has different things that
4 they're attached to.
5 **Q You had mentioned before physician**
6 **preference, right?**
7 A I did.
8 **Q You prefer to give it more often than some**
9 **doctors, right?**
10 A I didn't say that. I just said some
11 physicians have preferences, and that wasn't something
12 that I can recall was a preference of mine to do
13 regularly. But other anesthesiologists, yes.
14 **Q Even though it carries a risk of seizure, you**
15 **said before?**
16 A It's a very minimal risk. All medications
17 have risks.
18 **Q Sure. How much are you making to testify**
19 **today per hour?**
20 A Oh, I wasn't paid specifically to testify. I
21 was paid $2,000 in total for all my time spent on charts
22 review, research and being here today.
23 **Q Okay. Thank you. Do you more often work for**
24 **defense or prosecutions or plaintiff?**
25 A Almost always plaintiff because it's

1 generally a motor vehicle accident, and I'm the treating
2 physician, so almost always like 99 percent plaintiff.
3 **Q Okay. Thank you. Are you familiar with the**
4 **American Society of Anesthesiologists --**
5 A Yes.
6 **Q -- and their literature?**
7 A Well, I don't have it. I am not a member.
8 **Q You're not a member?**
9 A No.
10 **Q Okay. I'd ask you to turn to page 2681 of**
11 **Exhibit 107. It has not been admitted, but I'm going to**
12 **use it for demonstrative purposes.**
13 A 107. I only have up to 106 here.
14 **Q Oh, really?**
15 HEARING OFFICER WOODMAN: Which exhibit and
16 page number?
17 MR. WHITE: 107 on -- and it's 2681.
18 THE WITNESS: Although I would request if
19 you're asking me to comment on something I haven't read
20 before that I should have had it presented to me before
21 today.
22 MR. WHITE: You had mentioned something about
23 that. Let's see. Let me --
24 MR. FLANGAS: Do you not have 107 there?
25 THE WITNESS: It goes up to 106. Like I'm

1 not making this up.

2 MR. WHITE: I believe you.

3 THE WITNESS: Is it somewhere else on here?

4 **Q (BY MR. WHITE:) No, I think it's up here in**

5 **the binders and not down there. Sorry. I don't know**

6 **what happened. Are you familiar with the American**

7 **Society of Anesthesiologists? I think I already asked**

8 **you this.**

9 A Yes.

10 **Q And the literature?**

11 A I am not a member, so I wouldn't just know

12 their literature. There's pain societies where I'm very

13 familiar with or other societies, but I am not a member

14 of that society, so I you wouldn't be able to quote their

15 guidelines for you which is why I said if you'd like me

16 to comment on something, it would have been best to be

17 presented to me ahead.

18 **Q Doctor, it's possible a patient can be stable**

19 **like you testified here this patient was stable when they**

20 **came out of surgery, right? Was this patient stable?**

21 A Is that the question?

22 **Q No. I'm getting to the whole question.**

23 A What is your question?

24 **Q Was this patient -- you had testified this**

25 **patient was stable. Their vital signs showed they were**

1 **stable; correct?**
2 A Correct. Going off the vital signs shows
3 stability.
4 **Q Okay. In your experience, you'd have to --**
5 **you'd agree that it's possible for a patient to be stable**
6 **through their vital signs and also require Flumazenil if**
7 **they need a reversal?**
8 A But I don't know the exact reasons the
9 Flumazenil. Like to me, it looks like surgical --
10 anesthesiologists' preference.
11 MR. WHITE: Okay. Objection, nonresponsive.
12 Nonresponsive. Never mind.
13 MR. FLANGAS: No. Why don't you ask the
14 question again.
15 THE WITNESS: I think it was asked and
16 answered, so okay.
17 **Q (BY MR. WHITE:) The question is: Can**
18 **somebody be stable and yet also need Flumazenil as a**
19 **reversal because there's concerns? Yes or no? That's**
20 **all I'm asking.**
21 A Well, I don't think it's such a yes-or-no
22 question.
23 **Q I've asked a question. I'm asking the**
24 **questions. It's a yes-or-no question.**
25 MR. FLANGAS: I'll object to your -- Hang on.

1 THE WITNESS: I'm not going to answer it as a
2 yes or no.
3 MR. WHITE: Okay.
4 MR. FLANGAS: One second. I'm going to
5 object. You know, you might want a yes-or-no answer, but
6 if it doesn't call for that in her mind, she's allowed to
7 answer your question. Now I'd ask the Hearing Master to
8 have her answer the question.
9 HEARING OFFICER WOODMAN: Well, and she did.
10 She said that she can't give a yes-or-no answer, and so I
11 think that's a fair answer. And if you want to ask a
12 follow up, he can. And if you want to get into it on
13 redirect, you can.
14 MR. FLANGAS: Right.
15 **Q (BY MR. WHITE:) I'll move on. Other than**
16 **doctor preference or physician preference, what would be**
17 **a reason to use Flumazenil?**
18 A The indications for Flumazenil could be that
19 it's basically a reversal for Midazolam, so it could be
20 that there was sedation or some drowsiness.
21 **Q How long would it take -- based on what you**
22 **see on page 2552, in your estimation -- how long would it**
23 **take somebody to not be drowsy from this dose of**
24 **propofol?**
25 A Well, it's hard to just say based on this

1 dose of propofol. Remember, this is cumulative, this
2 propofol, so this builds over time actually. It's not
3 like we just gave a bolus and then they're going to be
4 fine later. There's some buildup of propofol, but this
5 varies patient to patient.
6 I mean, I do have to state it says in this
7 note patient after procedure was talking and alert and
8 oriented. I don't know. It just seems like we keep
9 going back to Flumazenil and some smoking gun. I just --
10 I am just not seeing the problem here.
11 **Q Okay. Thank you for that. You had mentioned**
12 **four milligrams is a moderate dose of Midazolam?**
13 A Yes.
14 **Q Okay. That would be based on a patient's**
15 **size though; correct?**
16 A So basically with IV medications, you base it
17 on ideal body weight and --
18 **Q Objection --**
19 A -- it can go --
20 **Q -- nonresponsive. It is based on their body**
21 **size, right? Yes?**
22 A Well, you're saying size. I want to say
23 weight. I basically want to say ideal body weight
24 because that's the correct terminology.
25 **Q Okay. Do you know -- you don't know this**

1 **patient's ideal body weight, do you? So you can't make a**
2 **determination as to what --**
3 A Well, I need --
4 **Q -- a moderate dose is?**
5 A She's 5'4", I mean, and she weighs 142. So
6 at 5'4", she should be about like 125, 130. I mean, we
7 don't -- so my -- all these pain charts that I see, too,
8 that the patients get sedation for, they all get one to
9 two to four to milligrams of Midazolam.
10 It's not reasonable and it's not a community
11 standard to start dosing out like 1.12 or 1.3. I mean, a
12 normal range is really you give one. You can give two.
13 You can give four. You wouldn't really give more than
14 four in the beginning, but this is -- those are short
15 procedures. This procedure is going on for four hours,
16 so four milligrams, IV Midazolam, it's reasonable when I
17 see it for this type of procedure.
18 **Q What causes vasodilation?**
19 A Things that can cause vasodilation?
20 **Q Yeah.**
21 A A warm environment, hyperthermia.
22 **Q What is vasodilation?**
23 A Vasodilation would mean like a widening or
24 opening of the vessels.
25 **Q Okay. And that can cause also what else?**

1 A Heat loss.

2 **Q Yeah, it's also low blood pressure?**

3 A It could cause a lower -- a vasodilation

4 could cause a lower blood pressure.

5 **Q And I think you already answered this. You**

6 **actually see this as a great outcome, don't you, this**

7 **what happened to this patient?**

8 MR. FLANGAS: I'll object.

9 THE WITNESS: I don't see it as a great

10 outcome. You're misinterpreting my words.

11 **Q (BY MR. WHITE:) You said she had great --**

12 A I did not --

13 HEARING OFFICER WOODMAN: For the benefit of

14 our court reporter --

15 THE WITNESS: -- say that.

16 HEARING OFFICER WOODMAN: Doctor, for the

17 benefit of the reporter, I need both lawyer and witness

18 to speak finish speaking. Wait for the other person to

19 finish speaking. She cannot possibly take down

20 everything that's being said when you're both speaking at

21 the same time.

22 So, Counsel, ask a question. Doctor, answer.

23 Counsel, ask a question. Doctor, answer. Please be

24 overly careful about not speaking over each other. It's

25 just not fair to the reporter, and we won't come out with

1 a clean record. All right.

2 Mr. White?

3 **Q (BY MR. WHITE:) You said that she got great**

4 **anesthetic care, didn't you?**

5 A I said she got great anesthetic care.

6 **Q Okay. You also -- I'm not saying you said**

7 **this. You also think that this was a good outcome, don't**

8 **you?**

9 A I didn't comment on the outcome. What I had

10 said is when I looked at just the vital signs and the

11 fact that she had this type of liposuction when I'm

12 looking just at the square chart in there, I thought yes,

13 it looks like she's going to have like a great outcome

14 from that. Just the squares. I'm not talking about the

15 writing down below on the sides. I'm here for the

16 anesthesiology aspect.

17 **Q You said before a surgeon gets clearance, do**

18 **you know what --**

19 (Disconnected.)

20 (WHEREUPON, an off-the-record discussion ensued.)

21 HEARING OFFICER WOODMAN: Dr. Belsky, I'll go

22 back to Mr. White's questioning. And remember: I need

23 both of you to not speak over each other.

24 So, Dr. Belsky, you had said before that

25 surgeon gets clearance for something, and I don't

1 remember what you were referring to. Do you?
2 THE WITNESS: I do. So for certain types of
3 surgeries, it's up to the surgeon if they would like a
4 what's called a preop clearance or not. The surgeon may
5 ask for a patient to see an internist or they may ask for
6 an EKG, or they might ask, you know, for infectious
7 disease if the patient had some type of transplant. So
8 that's what I was referring to.
9 **Q (BY MR. WHITE:) Okay. So that doesn't**
10 **happen very much at med spas though, does it?**
11 A I don't think this is as common as -- I mean,
12 I generally see them more with like orthopedic surgery.
13 **Q And certainly probably not as often when the**
14 **surgeon is a P.A., right?**
15 A I don't have an answer to that, but I would
16 just say that generally, kind of going back one step
17 before the P.A. part that the type of patient coming to
18 this like this type of facility is generally healthy and
19 doesn't usually need a preop clearance. I like that for
20 better clarification.
21 **Q Sorry. Trying not to talk over you. And we**
22 **have a little bit of a delay -- not much, but it's pretty**
23 **good. How do you know she's healthy, this patient? Can**
24 **you point it out in the records?**
25 A So she did a preop questionnaire, and I did

1 go through it, and I doesn't see that she has any
2 history. I didn't see anything that stood out in the
3 history other than drinks caffeine. And I don't consider
4 that a medical condition.
5 **Q Where are you looking?**
6 A Well, we have a whole history here. Like we
7 have a medical questionnaire that she filled out and
8 other --
9 **Q Yeah, I know. I'm just asking like what page**
10 **are you on?**
11 A Oh, sure. It's like we've got 2554, we've
12 got 2555, 2556, 2557, 2558, 2559. And then I also looked
13 at her, you know, on the -- even this sheet. It has her
14 weight, it has her height, and it has no known drug
15 allergies. There were some things stating her only
16 surgery was a hysterectomy, so there's a history here.
17 **Q Do you see on 2554 --**
18 A I do.
19 **Q -- after patient took meds ordered by**
20 **Dr. Borromeo, she felt dizzy before surgery?**
21 A I saw that. Yes.
22 **Q Yeah. And before the procedure, would that**
23 **be a good time to maybe reschedule if you're the**
24 **anesthesiologist?**
25 A I'm not sure why you'd reschedule for that.

1 She just took a -- she took two opiates. I'm not going
2 to bring myself into it, but like she took two Percocets
3 and then there was oral meds.
4 **Q Yeah, I know that's the cause of her**
5 **dizziness and we would be speculating, but the patient's**
6 **dizzy whether it's because of something else or she took**
7 **two opiates, probably a good time to reschedule.**
8 **Wouldn't you agree with that?**
9 A So you don't just say the patient's dizzy
10 let's reschedule. You do vital signs and talk to the
11 patient. And the first thing to start with is get a set
12 of vital signs.
13 **Q Do you see an indication that the patient --**
14 **that they talked to the patient and she was okay or was**
15 **she too dizzy to talk?**
16 A I don't have an answer to your question.
17 **Q Doctor, you're not a practicing**
18 **anesthesiologist anymore, are you?**
19 A I'm not practicing giving anesthesiology
20 anymore. That's correct.
21 **Q And that's since 2004, so 18 years?**
22 A Correct. But I've maintained my
23 certification until 2015. But you know what? I got
24 Board certified was it -- I think my Board certified was
25 actually in like 2005, and so I was still Board certified

1 in anesthesiology for 2015.

2 **Q But with a subspecialty of pain management;**

3 **right?**

4 A Yes, correct.

5 **Q Yeah.**

6 A And I'm still Board certified in pain

7 management by the American Board of Anesthesiology.

8 **Q And pain management. Gotcha. Thank you.**

9 A Yes.

10 **Q How much work have you done at med spas?**

11 A So I have not done a significant amount of

12 work in med spas.

13 **Q By significant --**

14 MR. FLANGAS: Hang on. Let her finish her

15 question.

16 THE WITNESS: I owned a med spa in the past

17 in California. It's on my CV.

18 **Q (BY MR. WHITE:) Did you work in it?**

19 A I did.

20 **Q Did you have an anesthesiologist there?**

21 A No. I was at -- I'm an anesthesiologist.

22 But we didn't do -- I mean, I didn't do liposuction. It

23 was a med spa. We didn't do liposuction in that med spa,

24 but we did other types of -- we did med spa type

25 procedures.

1 **Q Okay. Thank you. Indulgence, please.**
2 **Doctor, you had stated before that it is not**
3 **necessary to do vitals every five minutes; correct?**
4 A What I stated is it's up to the procedure or
5 policy of the facility and the anesthesiologist.
6 **Q So you wouldn't follow something like the**
7 **American Society of Anesthesiologists?**
8 A I follow my regulatory agencies. So like I
9 follow what my surgery center, what triple AAAHC tells me
10 to do and what the State tells me to do. That's what I
11 follow.
12 **Q And if you don't follow it, even though the**
13 **recommendation is for every five minutes, you can --**
14 MR. FLANGAS: I'll object.
15 MR. WHITE: Let me finish, okay?
16 MR. FLANGAS: Okay.
17 **Q (BY MR. WHITE:) Even though five minutes is**
18 **recommended, you can go outside that; correct?**
19 MR. FLANGAS: I'm going to object. There's
20 nothing in the record that says that the State of Nevada
21 orders that you have to do it five minutes. Okay. And
22 what you're saying is well, if you don't follow what the
23 State says, five minutes, that's inaccurate. That's not
24 in the record. That's my objection.
25 HEARING OFFICER WOODMAN: Response?

1 MR. WHITE: Well, it is in the record because
2 Dr. Janes testified to it. So it is in the record as
3 testimony from him.
4 HEARING OFFICER WOODMAN: That was his
5 opinion. I don't think he was relying -- I don't think
6 he referred to any specific --
7 MR. WHITE: He referred to the American
8 Society of Anesthesiologists when he was talking.
9 HEARING OFFICER WOODMAN: He did generally.
10 I don't know if that was tied directly. But ask your
11 question again. And I know your objection.
12 And, Doctor, before you answer the question,
13 let me make a decision.
14 **Q (BY MR. WHITE:) So, Doctor, if the American**
15 **Society of Anesthesiologists says that five minutes is --**
16 **that it should be every patient receiving anesthesia that**
17 **shall have arterial blood pressure and heart rate**
18 **determined and evaluated at least every five minutes,**
19 **would you have any reason to dispute that?**
20 A Yes.
21 **Q Okay. Now, if it says that, you can actually**
22 **go outside of that, right? You can go outside of that**
23 **but you should make notations or actually what it says is**
24 **it should be stated including the reasons in a note in**
25 **the patient's medical record if you go outside of every**

1 **five minutes. Do you see anywhere on here in 2552 where**
2 **that's stated?**
3 MR. FLANGAS: Hang on. I'm going to object.
4 We have three different questions now. The first
5 question had to do with the American Society.
6 MR. WHITE: What is your objection?
7 MR. FLANGAS: It's a compound question. How
8 is that?
9 MR. WHITE: Okay.
10 MR. FLANGAS: Let's do one question at a
11 time.
12 MR. WHITE: All right.
13 HEARING OFFICER WOODMAN: Hold on.
14 THE WITNESS: I was going to say in the first
15 answer, I dispute it because we're going through
16 recommendations from a society, and I was not given that
17 to look over or comment ahead.
18 I don't know if you're referring to general
19 anesthesia. I don't know if you're referring to MAC, a
20 conscious, a deep, outpatient, inpatient, hospital. It's
21 vague. And so I don't have it in front of me, and I
22 wasn't given the opportunity to look at it. And so I go
23 by the state regulations.
24 **Q Let me ask you this. If you were in charge**
25 **as the anesthesiologist and you went outside the five**

1 **minutes, would you make a note in the patient's medical**
2 **record of why that is?**
3 A I would not if I were doing 15-minute
4 increments all along. So that's the point that some
5 charts have 15 minutes. Some had five. But if you were
6 at regular intervals of 15, but then you went to five,
7 you should document well, why were you switching to the
8 five? Was there something to focus on? That's all.
9 Like if you're switching in the middle, why. That's all.
10 MR. WHITE: Thank you, Doctor. That's all I
11 have.
12 HEARING OFFICER WOODMAN: Redirect?
13 MR. FLANGAS: Just one or two questions.
14
15 REDIRECT EXAMINATION
16 BY MR. FLANGAS:
17 **Q What are the State regulations on monitoring**
18 **vitals?**
19 A Well, it depends on what the facility is,
20 what the cases are. I know at like Mako, so general
21 anesthesia, it's going to be five minutes. For MAC
22 sedation -- well, we still just use five minutes because
23 that's our procedures and policies. And then the State,
24 we have to present our procedures and policies to the
25 State and the State signs off on it. So that's how I

1 basically go about it.

2 **Q Okay. And you've already testified in the**

3 **community in California and in Vegas, there are**

4 **facilities that, depending on the type of procedure, they**

5 **go by 15 minutes. Correct?**

6 A This is correct.

7 **Q And that's in the community; correct?**

8 A Correct.

9 MR. FLANGAS: That's all.

10 HEARING OFFICER WOODMAN: Anything further?

11 MR. WHITE: Yeah, I do. Just one, I think.

12

13 RECROSS EXAMINATION

14 BY MR. WHITE:

15 **Q You said you didn't have anesthesia or didn't**

16 **do anesthesia or have an anesthesiologist with you in**

17 **your business in California.**

18 A Well, I owned that clinic with another

19 anesthesiologist that I had done residency with. The two

20 of us owned it together.

21 **Q Okay. You didn't have an anesthesiologist**

22 **practicing there though because you didn't do**

23 **liposuctions?**

24 A Correct. And we were both anesthesiologists.

25 Yes.

1 **Q Yeah. I understand that.**
2 A Okay. No, we didn't do liposuction. I mean,
3 it wasn't that -- I don't think it was really popular.
4 It wasn't done on an outpatient basis then. This has
5 become really popular to do this in office in the past
6 even five years.
7 **Q So when did you own your California med spa?**
8 A So that was like 2004-2005.
9 **Q Okay. And you never employed an**
10 **anesthesiologist to do any procedures?**
11 A Well, we did the procedures.
12 **Q Sorry?**
13 A Myself and my partner were both
14 anesthesiologists. We actually did the procedures. We
15 did like it was types of med spa procedures like Botox
16 and laser, and we did it ourselves.
17 **Q Right. Bad question. You did not employ an**
18 **anesthesiologist to actually do anesthetics, did you?**
19 A No.
20 **Q If you had done liposuctions, would you have**
21 **employed an anesthesiologist or would one of you have**
22 **done that work?**
23 A I would be guessing. You're just -- This is
24 -- I couldn't tell you what. This is -- I don't know
25 what the regulations were surrounding that. This is just

too conjectural.

Q (BY MR. WHITE:) Sorry to make you guess all day.

A No, but --

MR. WHITE: I have nothing more.

HEARING OFFICER WOODMAN: Thank you, Doctor. I think that wraps you up today, and it will wrap us up as well. We appreciate you being there. We appreciate your time and your expertise.

THE WITNESS: Thank you. Happy Hanukah.

HEARING OFFICER WOODMAN: Happy holidays.

Is there anything we needed to do housekeeping wise on the record?

MR. WHITE: No, I don't think so.

HEARING OFFICER WOODMAN: So we will go off the record, and the time is 5:25 p.m.

-o0o-

STATE OF NEVADA)
COUNTY OF WASHOE)

I, Nicole J. Hansen, Certified Court Reporter, State of Nevada, do hereby certify:

That prior to being examined, the witness in the foregoing proceedings was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth;

That said proceedings were taken before me at the time and places therein set forth and were taken down by me in shorthand and thereafter transcribed into typewriting under my direction and supervision;

I further certify that I am neither counsel for, nor related to, any party to said proceedings, not in anywise interested in the outcome thereof.

In witness whereof, I have hereunto subscribed my name.

Dated: December 29, 2022

Nicole J. Hansen

Nicole J. Hansen
NV. CCR No. 446, RPR, CRR, RMR
CA. CSR 13,909

In the Matter Of:

Nevada State Board of Medical Examiners

EVIDENTIARY HEARING, DAY 3

December 21, 2022

Job Number: 926032

1 BEFORE THE BOARD OF MEDICAL EXAMINERS

2 OF THE STATE OF NEVADA

3 -o0o-

4

5 In the Matter of Charges

6 and Complaint Against:

7 MARYANNE DEFOREST PHILLIPS, M.D.

8 Case No. 21-10032-1

9 Respondant.

10 _____/

11 Pages 1 to 170, inclusive.

12

13

14 EVIDENTIARY HEARING - DAY 3

15 _____

16 Wednesday, December 21, 2022
Reno, Nevada

17

18

19

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21

22 REPORTED BY: TINA M. DALPINO
CCR #641 (Nevada)

23 CSR #11883 (California)

24 JOB NO: 926032

25

1 A P P E A R A N C E S

2

3 FOR THE BOARD:

4 NEVADA STATE BOARD OF MEDICAL EXAMINERS

5 BY: DONALD WHITE, SR. DEPUTY GENERAL COUNSEL

6 9600 Gateway Boulevard

7 Reno, NV 89521

8

9 FOR RESPONDENT:

10 FLANGAS LAW FIRM

11 BY: LEO FLANGAS, ESQ.

12 600 S 3rd Street

13 Las Vegas, NV 89101

14

15 ALSO PRESENT:

16 Charles Woodman, Hearing Officer

17 hardywoodmanlaw@msn.com

18 Meg Byrd

19 -o0o-

20

21

22

23

24

25

1 I N D E X

2

EXAMINATION OF DR. PHILLIPS:

3

4 by Mr. White 4, 64, 84, 85

5 by Mr. Flangas 36, 84

6 by the Hearing Officer 82

7

8 EXAMINATION OF JEREMY LOVELL:

9

10 by Mr. Flangas 90

11 by Mr. White 96

12

13 EXAMINATION OF ALLEN MILLER, M.D.:

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15 by Mr. Flangas 106

16 by Mr. White 111

17

18 CLOSING ARGUMENTS:

19

20 by Mr. White 118, 163

21 by Mr. Flangas 131

22 -o0o-

23

24

25

1 BE IT REMEMBERED that on Wednesday, December
2 21, 2022, commencing at 9:14 a.m. of said day, at
3 the Nevada Board of Medical Examiners, 9600 Gateway
4 Drive, Reno, Nevada, before me, TINA M. DALPINO, a
5 Certified Shorthand Reporter, the following
6 proceedings were had:
7 ----------
8 THE HEARING OFFICER: Back on the record in
9 the case of the Medical Board's case with
10 Dr. Maryanne Phillips. Mr. White is here on behalf
11 of the Investigative Committee and the Board. Dr.
12 Phillips is here with her counsel, Mr. Flangas:
13 We're going to get back to Mr. White's redirect
14 examination of Dr. Phillips.
15 So, Mr. White, when you are ready.
16 MR. WHITE: Thank you.
17 REDIRECT EXAMINATION
18 MR. WHITE: Exhibit 93, which is a video.
19 It's been marked and admitted already through
20 stipulation.
21 (Video played.)
22 BY MR. WHITE:
23 **Q That's about half the video right there on**
24 **Exhibit 93.**
25 **So, Dr. Phillips, what were you doing**

1 **there, a chin liposuction?**

2 A This is an aesthetic procedure similar to

3 injecting Juvederm, which has local anesthetic in

4 it. And basically it's called "liposuction"

5 because, instead of injecting the filler, you're

6 taking out fat, and as you could see in the

7 drainage, it was a minimal amount.

8 This is definitely an office procedure,

9 it's not a surgery, and it is for aesthetics.

10 **Q So, for aesthetics, but it's a chin**

11 **liposuction, right?**

12 A It's termed that, yes.

13 **Q Does a chin liposuction generally get less**

14 **fat volume out as, maybe, a midsection?**

15 A Definitely.

16 **Q Okay.**

17 MR. WHITE: And, Ms. Byrd, is there a way

18 to tell when that video is uploaded? Can we put it

19 on the screen to see.

20 BY MR. WHITE:

21 **Q Dr. Phillips, it didn't look like there was**

22 **anybody else in the room with you.**

23 **You were there doing it yourself?**

24 MR. FLANGAS: I'll object that it's

25 leading.

1 BY MR. WHITE:

2 **Q Was anybody else in the room with you?**

3 A Usually there is.

4 **Q Okay. But you were doing the liposuction,**

5 **right?**

6 A I was doing the procedure.

7 **Q So, what does is date we see there, Dr.**

8 **Phillips?**

9 A "12/16/2020."

10 **Q So, I believe that's the date that that**

11 **video was uploaded, so it happened before at some**

12 **point before 12/16/2020.**

13 MR. FLANGAS: Or that date.

14 BY MR. WHITE:

15 **Q Or on the day. It could be on the day,**

16 **right?**

17 **So, did you want to change your answer from**

18 **yesterday that that's when you started doing**

19 **liposuctions?**

20 A That's not considered a true liposuction.

21 MR. FLANGAS: And I'll object.

22 THE WITNESS: I'm you just not -- sorry.

23 BY MR. WHITE:

24 **Q You said it was liposuction?**

25 A Well, it's termed that because you're

1 taking fat out, but that's the only thing that makes
2 it even close to liposuction.
3 **Q But you've --**
4 MR. WHITE: Can I talk to the witness,
5 please?
6 MR. FLANGAS: I'll object for the record,
7 please. You said, Do you want to change your
8 testimony from yesterday, and that's an inaccurate
9 statement.
10 THE HEARING OFFICER: Well, I think he
11 asked a question, does she want to change her
12 testimony, and then she -- her response was to
13 clarify that -- I think what the witness is
14 saying -- and Dr. Phillips, please, clarify for me
15 -- what I'm getting from the testimony is that
16 yesterday she testified -- I'd have to go back and
17 look at my notes -- as to when she started doing
18 liposuction, and that was a date after this date.
19 I think what you're saying is the reason
20 you said that is because this procedure is not
21 liposuction. Am I understanding your testimony?
22 THE WITNESS: Right. That's correct.
23 Instead of putting a filler in, you're taking out
24 tissue.
25 MR. FLANGAS: Just for the record, she also

1 testified she trained with Dr. Serrano for six
2 months and he left at the end of '21.
3 MR. WHITE: I'll object to the opposing
4 attorney testifying right now.
5 THE HEARING OFFICER: Sustained.
6 And, Dr. Phillips, please remember -- and
7 this applies to our attorneys as well for our
8 reporter's benefit and for my benefit -- everybody
9 wait until the other person is done talking before
10 you start to answer or otherwise respond.
11 Okay. Mr. White.
12 MR. WHITE: I apologize, Mr. Woodman, for
13 talking over Mr. Flangas, but I felt like I needed
14 to cut him off before he was able to get things on
15 the record that were improper.
16 MR. FLANGAS: I'll just object that it
17 wasn't proper.
18 MR. WHITE: Improper content.
19 MR. FLANGAS: I understand, done. It's
20 okay. I got that.
21 THE HEARING OFFICER: All right. Back to
22 questions.
23 BY MR. WHITE:
24 Q So, semantically -- this is semantics,
25 right --

1 A Yes.

2 **Q -- whether this is liposuction or not?**

3 A That's true.

4 **Q It is the same procedure, though, that you**

5 **do on stomach or love handles, same procedure,**

6 **smaller cannulas. Is that correct?**

7 A Definitely smaller cannulas. Not the same

8 as an abdominal procedure, because you're not in a

9 major cavity. You're just under the skin, which,

10 you are also in the abdomen.

11 **Q Just under the skin, correct?**

12 A Just under the skin, yes.

13 **Q So, really, it's just a different part of**

14 **the body. Is that correct?**

15 A That's true.

16 **Q And then?**

17 A The procedures that --

18 **Q And this was before the end of the year.**

19 **This video was either uploaded the day of 12/16 or**

20 **-- well, it was uploaded on --**

21 A I don't know when it was.

22 **Q It was uploaded December 16th, 2020. We**

23 **don't know when the video happened but we know we**

24 **can't upload a video that doesn't exist.**

25 **So, this video, will you agree with me,**

1 **that video was taken of you doing a procedure that**
2 **took place at least on or before 12/16/20?**
3 A Yeah, I agree to that.
4 **Q And did we see -- I know it doesn't pan the**
5 **whole entire room, I'll give you that, but did you**
6 **see anybody else in the room with you and did you**
7 **hear anybody else in the room with you?**
8 A I don't remember.
9 **Q I heard --**
10 A I mean, there usually is.
11 **Q Did you hear your voice?**
12 A Once, yeah.
13 **Q And did you hear a woman's voice speaking**
14 **Spanish?**
15 A No. It was a man.
16 **Q That was a man?**
17 A Speaking Spanish?
18 **Q Yes.**
19 A Definitely sounded like a man to me.
20 **Q Okay. Can we -- all right.**
21 MR. FLANGAS: For the record I'll state
22 that sounded like a man to me too.
23 THE HEARING OFFICER: And for what it's
24 worth, I also thought it was a man.
25 MR. WHITE: Okay.

1 BY MR. WHITE:

2 Q So, was that Dr. Serrano.

3 A I believe it was.

4 Q Do you speak Spanish? Could you

5 understand?

6 A I can understand. I don't speak it that

7 much. He definitely speaks Spanish and uses an

8 interpreter if he doesn't -- I mean, if he wants to

9 communicate in English.

10 THE HEARING OFFICER: And, again, throwing

11 in, for what it's worth, I lived in South America

12 for two years. I speak Spanish fluently, so I

13 understand everything.

14 MR. FLANGAS: Where in South America.

15 THE WITNESS: Paraguay. We'll have to

16 talk.

17 BY MR. WHITE:

18 Q Do you speak or understand Spanish?

19 A Enough. In the medical profession I did

20 two years in the Dominican Republic in my medical

21 school training before I came back to California.

22 And everything's in Spanish and it's not difficult

23 because medical is medical.

24 Q So, if you can help us, what was he telling

25 you to do there, if he was assisting you?

1 A He was actually talking about the procedure
2 and how much it was gonna cost and that it was done
3 under local anesthetic only and that they would get
4 good results, was basically kind of advertising.
5 **Q Okay. Thank you. So, was he acting as**
6 **your training surgeon at that point?**
7 A He was, even though that procedure I
8 learned at NIMA with the Vampire facial.
9 **Q When did you go to NIMA?**
10 A In 2019. I took all the classes for Botox
11 fillers, plasma injection, and that's also in the
12 chin and facial area.
13 **Q If you know NIMA -- which I wrote down**
14 **National Institute of Medical Aesthetic --**
15 A Yes, it is.
16 **Q -- were you able to get CMEs through that?**
17 A I -- yeah, I got CMEs. They offer them in
18 a program as an esthetician if you want to take
19 more. But the classes I took -- $4,500 worth --
20 covered every part of the body. The ones on the
21 other video about the E Shot and P Shot, all of
22 those are covered in that training program.
23 **Q Okay. So, were you able to --**
24 A I'm certified, yes, in those.
25 **Q Were you able to apply those to your CMEs**

1 **that year before renewal?**

2 A Yeah. But I don't -- I don't usually use

3 them. I do my CMEs in anesthesia and general.

4 **Q If you can remember, what qualifies a**

5 **course as a CME? Is there a certification?**

6 A Yes, it is a certification --

7 **Q What are those?**

8 A -- to be certified.

9 **Q I mean, to qualify as an CME that this**

10 **Board will accept, do you know what those are?**

11 A I don't know what CMEs in aesthetics they

12 accept. I know they accept in my primary specialty,

13 my second specialty, and general medicine.

14 And then there's always a pain management

15 requirement and then a disaster requirement, you

16 know, like in case of a bomb, or something like

17 that.

18 **Q Right. But do you know the governing**

19 **bodies, like ABMS, or anything like that? Do you**

20 **know if those are the governing bodies that they**

21 **have to certify everything as a CME? That's the**

22 **question.**

23 A Yes. The continuing medical education has

24 to be from a university or an accredited teaching

25 facility, and NIMA is. Actually, they even have

1 student loans for these procedures.

2 **Q Where is NIMA?**

3 A It was on Howard Hughes Parkway in Las

4 Vegas. It's moved to Buffalo Avenue.

5 **Q Still in Las Vegas?**

6 A Still in Las Vegas. And they closed a

7 little bit during COVID and they're reopened.

8 They've been continuous.

9 **Q Okay. I might be overlapping some**

10 **questions. I don't remember exactly where we left**

11 **off yesterday.**

12 **But you were talking about how you had said**

13 **all the RNs were certified to work on the machine to**

14 **do propofol?**

15 A To my knowledge, yes.

16 **Q To your knowledge. And you had said maybe**

17 **that you asked them, right?**

18 A I asked one of them because she was a new

19 grad. The others had worked in the hospital. They

20 had administered propofol. And usually they use it

21 in a drip when the patient is intubated and it keeps

22 them comfortable. It has to be in a drip because

23 it's so short-acting.

24 Those nurses I didn't question. They

25 were, you know, at least five, seven years'

1 experience in ICU or hospital work and they were
2 bachelor-degree nurses. I don't usually question
3 them.
4 Q Okay. And is that -- so, my question would
5 be, You didn't question the nurses that you somehow
6 knew were certified because you had experienced them
7 working in the hospital.
8 A (Witness nods.)
9 Q Did you see them working in the hospital?
10 A No. I knew of their previous experience.
11 The new grad told me what class she was taking to be
12 certified, and that's the only reason I asked her.
13 Q Because she was new?
14 A Because she was a new grad.
15 Q When she was a new grad is that about the
16 time she started working at Vida Spa?
17 A I don't know when she graduated, but I know
18 she was fairly recent when she started working
19 there.
20 Q And so would this be the same kind of
21 mindset that you had, that you didn't question the
22 facility being licensed, that it was -- it had been
23 there for a while, just like the nurses that had
24 been working for a while, and you didn't question
25 it?

1 A No. Because everything that I needed for
2 anything was there. The nurses were very competent.
3 Most of them -- like I said, if they're dealing with
4 propofol, they were ACLS-certified.
5 I didn't have any reason to believe that
6 they didn't know what they were doing. I felt
7 comfortable. I would never do a procedure that I
8 felt, you know, was in danger for the patient, you
9 know, wouldn't be okay.
10 Q I think Mr. Flangas asked you yesterday on
11 cross-examination and I believe you had an
12 affirmative answer that you were an independent
13 contractor of Vida Spa.
14 A Yes. I was offered an employment contract
15 and I didn't sign it. I gave it to Leo's office,
16 actually, and I never signed it.
17 Q Why did you never sign it?
18 A When I was asked to be medical director, I
19 don't have a pharmacy DEA and so, therefore, I could
20 not be responsible for anything. And her diet
21 program which had phentermine and so forth, so I
22 said, No, I can't.
23 And I just came in for procedures, the
24 aesthetic procedures, Botox fillers, et cetera,
25 Vampire plasma injections and so forth. I just

1 came in as I was, you know, told there was a
2 patient that wanted my services.
3 **Q So, the whole time you were working at Vida**
4 **Spa you weren't employed there but you were an**
5 **independent contractor?**
6 A Correct.
7 **Q And did you receive 1099s for tax purposes**
8 **from Vida Spa?**
9 A No. I rented a space and she just
10 adjusted, you know -- paid my company, basically,
11 Bio NHS, for any services and that's it. It was
12 only a percentage.
13 **Q She paid you for services that you did.**
14 A For whatever I did.
15 **Q When you say "she," we're talking about**
16 **Gisselle Platfoot?**
17 A Yeah, usually.
18 **Q She's the owner of Vida Spa?**
19 A Yes. She's one of the owners.
20 **Q Who is the other owner?**
21 A I know his name is Rick -- I don't know his
22 last name -- and his wife.
23 **Q Was he there very much?**
24 A He would come in occasionally. He was
25 talking up -- about how he was going to open surgery

1 senior centers and this and that, and I don't know.
2 I guess he was well off.
3 **Q Is he a well-off doctor of any sort?**
4 A I don't know what his career is. I know
5 that his brother-in-law was a dentist who had an
6 office in that building, and we actually used some
7 of their equipment.
8 **Q Would you go over to the dentist's office**
9 **to use the equipment or would you roll it over to**
10 **your office?**
11 A They would bring it to the procedure room
12 that I used. The patients were all on the dental --
13 the computer that shows, you know, the dental -- I
14 don't know -- schedule, I guess you could say. All
15 the clients were on that computer.
16 **Q Okay. On the computer?**
17 A Yeah.
18 **Q So, you would see them --**
19 A Yeah. I was like oh, okay, I'm working in
20 a dental office. No problem. I've done propofol in
21 a dental office for kids.
22 **Q So, you would see -- when you brought the**
23 **computer up, booted it up for the --**
24 A Yeah.
25 **Q -- for the procedure that you were -- let**

1 **me just finish.**
2 A Sorry.
3 **Q I just want to clarify.**
4 **So, when you would bring over a piece of**
5 **equipment from the dental office, it would be a**
6 **computer of some sort and you would boot it up and**
7 **see the patients' names on there? Explain that to**
8 **me.**
9 A The front desk their computer, which has
10 their schedule and their patients, all the patients
11 were in that computer. And it was a dental -- what
12 do you call it -- computer. I'm not computer --
13 MR. FLANGAS: Software.
14 THE WITNESS: Software, there we go.
15 Sorry.
16 BY MR. WHITE:
17 **Q So, what piece of equipment was it? What**
18 **did you use this piece of equipment for? What was**
19 **it?**
20 A The equipment that she shared with any of
21 my procedures, suction, sterile equipment, infection
22 control stuff, you know, where to put stuff, that
23 sorta thing.
24 **Q Okay. So, let's go back.**
25 **You rented a space with Vida Spa.**

1 A Yes. Because I told her I wasn't gonna
2 sign an employment contract.
3 **Q Okay. So, maybe I misunderstood. You**
4 **couldn't just go work in the facility without**
5 **renting a space. Didn't she have a complete**
6 **facility?**
7 A She had a complete facility. Bio NHS, my
8 current and continuous employer, I was medical
9 director of and they allowed me to work there but as
10 just a secondary office space. That's it. I never
11 stopped working for Bio NHS, and that's Dr. Miller.
12 **Q And so you would pay Gisselle Platfoot**
13 **and/or Vida Spa company how much per month to be**
14 **there?**
15 A It was $500. If I didn't use the procedure
16 room and there's no, like, I had to pay every month,
17 she would not subtract that amount. She would just
18 subtract it from what she owed me for doing the
19 procedure if she scheduled it. That's all.
20 **Q What did she owe you for a procedure?**
21 A She paid a percentage. 20 percent.
22 **Q Okay.**
23 A It was less initially. She altered it on
24 some of them.
25 **Q Okay. But just for -- just for**

1 **clarification on the record, 20 percent and a**
2 **liposuction 360. Does that mean full liposuction?**
3 A I don't know how she calculated it. I just
4 know that it was a percentage.
5 **Q I think we heard yesterday on the video**
6 **that there was one that cost $5,000, right?**
7 A Yeah. She would advertise. I don't know
8 how much -- she took all the money. I didn't have
9 anything to do with any of that.
10 **Q And then you would just wait to see what**
11 **you got paid.**
12 A Basically. I mean, I knew that I would
13 get, you know, something. That's all.
14 **Q But if something was $5,000, you ended up**
15 **with $1,000. Is that right?**
16 A She would subtract the cost of the
17 disposables.
18 **Q Okay. So, she had some other --**
19 A She would subtract some from it my part of
20 it.
21 **Q And the $500 that you paid for that room,**
22 **was that monthly?**
23 A If I used the room on a month-to-month
24 basis. If I didn't use it, I didn't get charged.
25 She would just take it out of what she owed me.

1 That's all. It was just a procedure room.

2 **Q What if you used the room one time in a**

3 **month? Did you get charged?**

4 A She would sometimes just say, Hey, you

5 know, I'll just charge you part of it. She was

6 reasonable, I guess you could say.

7 **Q So, she would take, maybe, $500 and divided**

8 **it up by 30 and say --**

9 A I don't know how she calculated it. I

10 should have maybe kept more --

11 **Q Do you think you should have been a little**

12 **bit more --**

13 A I was trying to make extra money because I

14 wasn't making that much with Bio NHS at the time.

15 They were just starting out in Las Vegas.

16 **Q Bio NHS was starting out in Las Vegas?**

17 A Yeah. They were a worker's comp-affiliated

18 program and -- well, Dr. Miller can explain about

19 the program. But I looked at labs for them.

20 Occasionally did an injection, the PRP or whatever.

21 Basically evaluated their patients for whether they

22 should be on the program.

23 And they had a program where they were

24 taking patients off of opioids and giving them

25 other medications that were non-opioid,

1 non-addicting, and getting them better -- or at
2 least keeping them stable from their work injuries.
3 **Q So, it was mostly worker's comp for --**
4 A Yeah --
5 **Q -- NHS?**
6 A -- work comp.
7 **Q If you know, when was Vida Spa denied the**
8 **facility license? Do you know when that was?**
9 A I don't know the exact date. I know --
10 **Q And I guess I should clarify for the record**
11 **but I don't think you'll know the answer.**
12 **But if you can give me, maybe, the month**
13 **and year when they denied their facility license to**
14 **do sedation at that location.**
15 MR. FLANGAS: I'll object calls for
16 speculation.
17 THE WITNESS: I think you're gonna have to
18 get that from the person that actually did it.
19 BY MR. WHITE:
20 **Q Maybe the PMK, person most knowledgeable?**
21 A What agency is that?
22 MR. FLANGAS: For the record I was on the
23 car talking to the PMK asking him, you know, what he
24 found out or what he would testify to. So, I think
25 that's the first time she ever even heard that they

1 applied, and so she might know dates from the car.
2 MR. WHITE: I don't think I was asking for
3 speculation. I'm going to say my side of it.
4 I asked her if she knew to give me a date,
5 and if she doesn't know, she doesn't know.
6 THE HEARING OFFICER: And you don't know.
7 THE WITNESS: I don't know. And I was --
8 in my mind they were all set.
9 BY MR. WHITE:
10 **Q Yesterday you were able to name about four**
11 **medical directors when asked during your time that**
12 **you worked there for a year -- approximately a year.**
13 **I might have asked this yesterday, but do**
14 **you know if there was ever a lapse in time when**
15 **there was no medical director?**
16 A I don't know.
17 **Q There's been a lot of testimony and a lot**
18 **of questioning about records in this matter.**
19 **You've heard a lot of that, right?**
20 A Correct.
21 **Q And a lot of it has been questions directed**
22 **at what does a medical director do, what does a**
23 **custodian of records do, right?**
24 A Right.
25 **Q Do you understand what a custodian of**

1 **records does?**

2 A Yes.

3 **Q Have you ever incorporated them in your**

4 **business at all, in your practice?**

5 A I have at a period of time been a custodian

6 of records for my own records, and that was pain

7 management in an outside office. That's the only

8 time.

9 **Q I guess my question better said would be,**

10 **Have you ever used a third party, another company to**

11 **be your custodian of records?**

12 A No. But when I worked at the Pain

13 Institute I worked five-plus years for Las Vegas

14 Pain Institute doing all procedures, all office

15 work. They were in charge of all the records and I

16 just charted everything and made sure it was correct

17 and that's it.

18 **Q Okay. You made sure it was correct, right?**

19 A Yes, always.

20 **Q I guess to follow up on that, you made sure**

21 **they were, correct. Is that your responsibility as**

22 **a license-holder, to make sure your records are**

23 **correct?**

24 A That's correct.

25 **Q Dr. Phillips, I'd like you to look at**

1 **what's been marked as Exhibit 6, please.**

2 THE HEARING OFFICER: Didn't we toss 6? 6

3 is out.

4 MR. FLANGAS: Yeah, 6 is out.

5 THE HEARING OFFICER: That was Dr. Beggs's

6 letter.

7 MR. WHITE: Can I try to rehabilitate 6

8 through the person that it's about? I mean, we have

9 the person sitting here.

10 THE HEARING OFFICER: Go ahead. I'll let

11 you explore it a little bit.

12 MR. WHITE: Okay.

13 BY MR. WHITE:

14 **Q Do you see Exhibit 6, Dr. Phillips?**

15 A Yes.

16 MR. FLANGAS: Can I have you ask a

17 foundation question?

18 MR. WHITE: I'm going to ask a lot of

19 foundation questions, yeah.

20 BY MR. WHITE:

21 **Q Have you seen that letter before, Dr.**

22 **Phillips?**

23 A Not before today.

24 **Q Not before today?**

25 A No.

1 **Q Do you see that -- who was it written by,**
2 **if you know?**
3 A Lyn Beggs, I believe.
4 **Q Was she your attorney at that time?**
5 A Yes.
6 **Q And I'd like you to turn to page 27, which**
7 **is the last page of Exhibit 6.**
8 **And do you see the cc?**
9 A Yes. But I did never receive it.
10 **Q What's the name there?**
11 A That's my name, "Maryanne Phillips, M.D."
12 **Q But you're saying you never received that?**
13 A I didn't. I was out of state a lot when I
14 was communicating with her.
15 **Q So, did you communicate with her about this**
16 **letter?**
17 MR. FLANGAS: I'll object it calls for --
18 THE WITNESS: Not at the time.
19 MR. FLANGAS: -- attorney-client
20 communication.
21 MR. WHITE: No. I'm not asking the
22 contents of the conversation. I'm just asking, Did
23 you communicate about this letter.
24 THE HEARING OFFICER: And that question's
25 appropriate, but just so you know, Dr. Phillips,

1 talking about the content of your communication with
2 your former attorney, we don't go there. But it is
3 fair for him to ask you if you discussed. He can
4 get around the edge.
5 THE WITNESS: Yeah. We discussed Tammy and
6 that that was the last time I gave propofol.
7 MR. WHITE: Object, we don't even want
8 that.
9 BY MR. WHITE:
10 **Q My question is, Did you discuss writing a**
11 **response to the Board -- because that's what this**
12 **is, a response to the Board. Hold on. I want to**
13 **make sure we get this right.**
14 **This is a response to the Board, correct?**
15 A Correct.
16 **Q Did you discuss with Ms. Beggs -- I don't**
17 **want to know the actual contents of the discussion**
18 **-- did you discuss with Ms. Beggs that you were**
19 **going to respond to the Board?**
20 A Not in this case. Not this letter, no.
21 MR. FLANGAS: I think she's referring to
22 the -- some of the content in there she doesn't
23 discuss.
24 BY MR. WHITE:
25 **Q Okay. You have no personal knowledge of**

1 **that letter?**

2 A No.

3 **Q Okay.**

4 A I received a request in the mail after I

5 came back from Colorado from Kim -- whatever her

6 name was -- and I notified Ms. Beggs about that

7 request and that was mentioned yesterday, I believe

8 by.

9 MR. FLANGAS: There's no question before

10 you.

11 THE WITNESS: That's the only letter I

12 discussed with her.

13 BY MR. WHITE:

14 **Q Did you ever -- maybe we just don't have**

15 **it. Did you ever respond on your own without on**

16 **attorney?**

17 A No. I sent her my response to the request

18 for records and she did all the responding to you.

19 I didn't send it to the Medical Board or Kim. I

20 sent it to Beggs.

21 **Q Okay. Oh, you sent our request to --**

22 A To her, yeah. Because I came back and

23 checked my mail and it was in there. I was out of

24 state and I realized that -- I don't know if it was

25 the first request or the second request that Johnna

1 mentioned yesterday, but I let her know right away,
2 Hey, respond to that.
3 **Q So, without knowing what's in -- you never**
4 **knew what was in Exhibit 6, the letter?**
5 A Right.
6 **Q We established your name is on it, though.**
7 **It is a response in this matter to our request for**
8 **records and our allegation letter, correct?**
9 A Correct.
10 **Q But you don't know what's in that letter?**
11 A No, I don't.
12 **Q Or at least you may know what's in it**
13 **because you could read it --**
14 A Yeah.
15 **Q -- because it's been in your binder for a**
16 **long time and your attorney has had it.**
17 **However, you're saying that that's not how**
18 **you would have responded?**
19 A That's correct.
20 **Q So, you're basically saying that Ms. Beggs**
21 **sent a letter to us that was not authorized by you?**
22 MR. FLANGAS: I'm going to object to that.
23 First of all, I've been allowing you to lead. This
24 is your direct, but the whole reason --
25 MR. WHITE: The reason I'm doing that, Leo,

1 I understand that. I'm trying to keep her within
2 the boundaries.
3 MR. FLANGAS: Okay.
4 MR. WHITE: I don't want her to say
5 anything that's attorney-client privilege.
6 MR. FLANGAS: The objection is the
7 foundation was she didn't see that letter before it
8 went out. Ms. Beggs mixes some of the stuff up.
9 She didn't have a chance to correct her and that's
10 why we were objecting.
11 THE HEARING OFFICER: That's why I omitted
12 it yesterday.
13 MR. FLANGAS: Right. There's mix-ups
14 there.
15 BY MR. WHITE:
16 **Q Some mixup --**
17 A Yeah.
18 **Q -- as to what occurred.**
19 MR. FLANGAS: The operative time is did she
20 see it before it went out.
21 BY MR. WHITE:
22 **Q Did you see it before it went out?**
23 A No.
24 **Q So, if you didn't see it before it went**
25 **out, then you couldn't have read and understood it**

1 **and authorized it to go out, right?**

2 A I didn't feel like I had to authorize it.

3 I mean, she --

4 MR. FLANGAS: Hang on.

5 THE WITNESS: -- was taking care of it.

6 THE HEARING OFFICER: I'm at that point,

7 Mr. White, unfortunately, where I have to break.

8 We're just going off the record for a

9 moment.

10 (Recess taken.)

11 THE HEARING OFFICER: We're back on the

12 record. Mr. White, you may continue.

13 BY MR. WHITE:

14 **Q There was some questions, I think,**

15 **yesterday regarding your prescription-writing and**

16 **that it was only -- it wasn't for narcotics.**

17 **Do you remember that?**

18 A That's correct.

19 **Q Okay. So, it was for things like -- tell**

20 **me. Minoxidil?**

21 A Antibiotics.

22 **Q Okay.**

23 A And ibuprofen and stuff that is routinely

24 needed for preventing infection.

25 **Q And so ibuprofen would have been**

1 **prescription-strength ibuprofen. Is that correct?**
2 A Yes.
3 **Q Okay. And what is that? Is that more**
4 **milligrams?**
5 A Yes. About -- it can be up to
6 800 milligrams.
7 **Q A typical over-the-counter is what?**
8 A 200.
9 **Q And I just want you to answer this**
10 **question: How did you prescribe when you did not**
11 **have a prescribing license?**
12 A I did have a prescribing license at that
13 time.
14 **Q Okay. So, was this before the Board of**
15 **Pharmacy suspended your prescription license?**
16 A They suspended my controlled substance
17 registration so that would have limited it to
18 narcotics and controlled substances. I was never
19 suspended for routine prescriptions.
20 **Q Okay. We were talking yesterday -- I'm**
21 **sure you might remember -- we talked about you**
22 **renewing your license and we also talked about you**
23 **signing up for PACE.**
24 A Yes.
25 **Q I would ask -- you can make this part of**

1 **the record, that's fine. It's not really part of**
2 **this matter. If you have receipts and stuff like**
3 **that that show that you paid at earlier dates and**
4 **everything, obviously, that will be helpful to see**
5 **those?**
6 A Yes.
7 **Q You don't have to answer anything. So,**
8 **your attorney can hear too, but if you can gather**
9 **those receipts that you mentioned yesterday on the**
10 **record, we'll be glad to take a look at them and see**
11 **that you were paying up to the certain point.**
12 A Yes. The first one was in 2019 and
13 continued onto this year.
14 **Q If you have emails saying, We can't get you**
15 **in and here's the reason why -- I have here, and**
16 **I'll give your attorney a copy -- This is not an**
17 **exhibit, obviously.**
18 MR. FLANGAS: Do you know what "PACE"
19 stands for?
20 THE WITNESS: Physician Assessment -- I'm
21 not sure what the "CE" part is.
22 MR. FLANGAS: Certification Exam.
23 THE WITNESS: Continuing Education.
24 MR. WHITE: That's right. And it's at the
25 University of San Diego, so if you look --

1 MR. FLANGAS: I guess for the record, this
2 isn't really part of this case, but it's an issue
3 later on that we're gonna have to figure out and
4 resolve.
5 I just read that it says they were
6 basically out for about five months, but we would
7 have to present -- give you stuff to show during the
8 COVID period and everything else, right?
9 MR. WHITE: Yeah.
10 THE WITNESS: And I got sick during that
11 period, and even if you just had a fever and, you
12 know -- they made you test for COVID, stay in
13 quarantine for two weeks. I actually got sick at
14 Christmastime in 2020 after that. And they said no,
15 we can't schedule you, you know.
16 And the only Zoom, which they scheduled,
17 was the psychiatrist and that was fine. But that
18 wasn't scheduled for the first part, so the part
19 that they wanted me to come down there, they
20 wouldn't schedule because I was ill and then, you
21 know, this break that they had to do.
22 BY MR. WHITE:
23 **Q Right. Now, your attorney has that and**
24 **there's a name down there that you can also contact**
25 **Mr. Flangas. If you look on their website, that**

1 **person actually works there and they're the**
2 **administrative director of assessments.**
3 MR. FLANGAS: Okay. Thank you.
4 MR. WHITE: Along with the receipts and
5 everything.
6 MR. FLANGAS: Yeah. Because we'll have to
7 figure that part out. I understand.
8 BY MR. WHITE:
9 **Q But, yes, it is not part of this matter, as**
10 **you said.**
11 **Okay. "PACE" actually stands for Physician**
12 **Assessment and Clinical Education.**
13 MR. WHITE: Indulgence.
14 THE HEARING OFFICER: Go ahead.
15 MR. WHITE: I think that's all I have.
16 THE HEARING OFFICER: Very good. So
17 recross of your own client, Mr. Flangas.
18 MR. FLANGAS: Okay, thank you.
19 RECROSS EXAMINATION
20 BY MR. FLANGAS:
21 **Q Maryanne, Mr. White was asking you about**
22 **pay over at Vida Spa, correct?**
23 A Yes.
24 **Q Okay. The part of Vida Spa -- and I know**
25 **you were working for BHS.**

1 **Did you work for a surgical center?**
2 A Yes, I did.
3 **Q Tell the hearing master what surgical**
4 **center and who was the doctor.**
5 A Precision surgery center, Dr. Ezeanolue.
6 **Q What type of doctor?**
7 THE HEARING OFFICER: What was his name?
8 THE WITNESS: Ezeanolue.
9 THE HEARING OFFICER: Any help for the
10 reporter on that at all?
11 THE WITNESS: E-z --
12 THE REPORTER: I'll look it up.
13 MR. WHITE: I'd ask her to clarify when she
14 worked at the surgical center.
15 THE HEARING OFFICER: I'm sure he will.
16 THE WITNESS: October of 2019 through the
17 COVID period 2020.
18 BY MR. FLANGAS:
19 **Q Okay. So, about a six-month period?**
20 A Yeah.
21 **Q And you started in October of 2019.**
22 A Uh-huh.
23 **Q Is that a "yes"?**
24 A Yes.
25 **Q You gotta say "yes."**

1 A Sorry.

2 **Q And Dr. Ezeanolue, he's an internist?**

3 A Internist, pain management.

4 **Q Okay. What type of work did you do for**

5 **him?**

6 A Anesthesia.

7 **Q Okay. And so would you work every day with**

8 **him? I mean, how many days a week?**

9 A I worked three days a week.

10 **Q Three days a week.**

11 **And what type of anesthesia would you do?**

12 A Nitrous would be general anesthesia.

13 Sedation, heavy sedation, conscious sedation. He

14 did his own local anesthesia.

15 **Q Okay. What type of surgeries were being**

16 **performed?**

17 A All different types. Pain management-type

18 procedures. He also had liposuction, different

19 procedures on chronic pain patients and patients

20 that were injured.

21 **Q Okay. So, I started this conversation**

22 **because we were talking about pay with Vida Spa.**

23 **You worked for Dr. Ezeanolue for a**

24 **six-month period, correct?**

25 A Uh-huh.

1 **Q Is that a "yes"?**
2 A Yes.
3 **Q Three days a week, yes?**
4 A Yes.
5 **Q How was he supposed to pay you?**
6 A He was supposed to pay me by, you know,
7 check.
8 **Q Not cash under the table, huh?**
9 A He was gonna bill insurance and then --
10 **Q Okay. Let me ask you this: Were you an**
11 **independent contractor for his company?**
12 A Yes.
13 **Q Who kept the medical records for that**
14 **company?**
15 A He did.
16 **Q He did?**
17 MR. WHITE: Objection, relevance. I'm not
18 sure how this other practice is relevant to what
19 we're here for today.
20 MR. FLANGAS: Well, you talked to her about
21 other places she worked where she didn't take -- she
22 was not the custodian of records, third parties,
23 remember?
24 THE HEARING OFFICER: I'm going to allow
25 it. Go ahead.

1 MR. WHITE: Actually, I asked her if she
2 had ever owned her own practice and used a third
3 party, if she had -- used a third party to do that,
4 to be the custodian of records.
5 THE HEARING OFFICER: But you can go ahead.
6 I think it's fair.
7 BY MR. FLANGAS:
8 **Q Okay. So, I think she already said he was**
9 **the custodian of records for the records.**
10 A Correct.
11 **Q You would fill out the record, make sure**
12 **it's accurate and then give it to them, just like**
13 **you did in Vida Spa?**
14 A Correct.
15 **Q Over the six-month period did you ever get**
16 **paid one dime by Mr. E-Z?**
17 A He paid my malpractice.
18 **Q Did he ever pay you for all the procedures**
19 **you did?**
20 A No.
21 MR. WHITE: Again, relevance.
22 MR. FLANGAS: The relevance here is you
23 were talking about how -- you know, don't you know
24 how -- you should know how to calculate what you
25 were getting paid by Gisselle. I just wanted to

1 demonstrate.

2 MR. WHITE: That was relevant to -- well,

3 go ahead and finish.

4 MR. FLANGAS: She worked six months and

5 never got paid because she doesn't pay attention to

6 that type of stuff. She doesn't think that way.

7 MR. WHITE: Well, she's not here because

8 she's maybe not a good manager of her own money.

9 We're not here for that. I was just asking her to

10 get an understanding of how it was at Vida Spa.

11 MR. FLANGAS: I understand. But you went

12 into the realm of whether she knew this stuff, so

13 I'm just showing an example that here's a person

14 that worked six months and doesn't even get paid

15 because she doesn't pick up those type of cues. She

16 doesn't, you know -- and it's who she is as a person

17 that I think is important.

18 THE HEARING OFFICER: Again, I think it's

19 fair. Point made. Do you have more on that?

20 MR. FLANGAS: No. I think I'm done with

21 that.

22 THE HEARING OFFICER: Good.

23 BY MR. FLANGAS:

24 Q Okay. What was Dr. Ezeanolue's preference

25 -- tell me the type of medications and related to

1 **whether he even used Flumaznil.**

2 A Yes. It was very commonly used, pretty

3 much on a daily basis by all the persons in the

4 facility and he would order as well.

5 Because most of his sedation was

6 midazolam, the benzodiazepine, and fentanyl -- and

7 this is IV -- and it would be reversed. The

8 midazolam is reversed by Flumaznil, so that when

9 the patient was rolled out of the procedure room,

10 they would go to the recovery area.

11 And if they didn't, you know, talk to the

12 nurse and sit up and respond to what they were

13 telling them to do, they would give Flumaznil and

14 they would start waking up so that they could go

15 home, because this is an outpatient surgery center.

16 Narcan was used to reverse the fentanyl or

17 any other narcotic, but fentanyl was mostly what he

18 used, which is traditional for any facility that

19 does procedures. And usually just reversing the

20 benzo, the midazolam would be adequate. And the

21 fentanyl would stay onboard to keep them from being

22 uncomfortable because it's a pain medication, and

23 that's basically it.

24 **Q Okay. So, that was used every day?**

25 A Every day.

1 **Q Common?**
2 A Common, yes.
3 **Q And you used it every day there.**
4 **Is that correct?**
5 A Yes. At that particular --
6 **Q I believe you said after the procedure when**
7 **they were rolled out and you would start doing,**
8 **like, some type of evaluation talking to them?**
9 A Oh, yeah. The nurses would have them sit
10 up. They'd, you know, have a little oxygen on and
11 they have to be able to be alert and oriented and
12 get into the chair and go home with their family
13 member. They can't drive because they've had
14 midazolam, but they have to be able to be
15 functional.
16 **Q Okay. And if they didn't seem to be as**
17 **alert oriented, then you would give them Flumaznil?**
18 A Actually, if they didn't right away start
19 talking to the nurse and they were just wanting to
20 go back to sleep, you know, drowsy, he would go
21 ahead and order it.
22 **Q Okay. And do you see any problem with**
23 **using Flumaznil?**
24 A No. The rare complication that was
25 mentioned about a seizure, I have not seen and never

1 saw there. And it's very rare. It works.
2 Sometimes you have to give them a little bit more
3 than one or two cc's.
4 We usually had it drawn up in the room so
5 that we could give it if they were too drowsy
6 during the procedure. Because in that case the
7 fentanyl and midazolam was basically the only
8 sedation, no propofol, although they used it if
9 they wanted to.
10 But they would put a local anesthetic in.
11 Similar to doing an epidural, you'd inject
12 lidocaine, and so that was their, you know, main
13 anesthetic for the injection that they're getting
14 or the spinal cord stimulator that they're putting
15 in or whatever.
16 Q Okay. So, you don't see anything wrong
17 with using that if they don't wake up right away and
18 it's -- and a negative consequence of a possible
19 seizure is very rare?
20 A That's correct.
21 Q That's your opinion?
22 A Yes.
23 Q Is that why --
24 A That was my preference. And he actually,
25 you know --

1 **Q Was it Dr. Ezeanolue's preference too?**
2 A Preference too, yeah. He recommended it.
3 **Q Did you ever use Flumaznil prior to Dr.**
4 **Ezeanolue?**
5 A Yes. But in the hospital it's not used as
6 much because you don't need it because you're giving
7 other things, and the benzos have already worn off.
8 These are short procedures.
9 **Q Okay. So, are you drawing a distinction**
10 **between using it at an outpatient facility versus**
11 **like a surgical center or a hospital?**
12 A Definitely there's a difference.
13 **Q Why is it -- would it be used more**
14 **prevalent at an outpatient facility?**
15 A Because the patient has to go home and they
16 can't be drowsy.
17 **Q Okay.**
18 A It's -- what they're using is they want it
19 short-acting and they want it to go away --
20 **Q Okay.**
21 A -- as far as the effects.
22 **Q So --**
23 A They don't have to worry about it. They're
24 not there.
25 **Q It makes it more safe for the patient?**

1 A Yes, it's definitely safer.

2 **Q You mentioned Narcan. It's similar to**

3 **Narcan?**

4 A Narcan for opioid reverses, you know,

5 oxycodone.

6 **Q Okay.**

7 A Morphine, whatever. And this reverses

8 midazolam, Valium, any benzodiazepine.

9 **Q Okay. Got it. The -- Mr. White asked you**

10 **questions about -- it wasn't about the equipment but**

11 **you mentioned something about there was a dental**

12 **software on the computer.**

13 A Yes.

14 **Q Is that like the standard medical software**

15 **that you've seen in other medical facilities?**

16 A Yes.

17 **Q Okay. In other words, it's a software --**

18 **you said it's for dental but you've seen that same**

19 **software for medical?**

20 A Oh, absolutely. Dental, medical. It's --

21 **Q It's all the same thing?**

22 A Yeah. Because it's geared to the --

23 **Q Patients?**

24 A -- the patients that are being treated.

25 **Q Okay. So, that was just another indication**

1 **of just how professional this organization was?**
2 A Yes.
3 **Q You said you sometimes used some of the --**
4 **I don't know if it's throw-away stuff or some of the**
5 **items from the dental office.**
6 A Equipment, yeah.
7 **Q Can you explain that to the hearing master,**
8 **what -- can you give an example of what you would**
9 **use from the dental office?**
10 A For the suction in the mouth -- now, that's
11 not sterile. Liposuction would have to be sterile,
12 that whole --
13 **Q Suction at the mouth?**
14 A -- everything. The suction of the mouth
15 would not be sterile, so they would use -- sometimes
16 I could use the suction like your dentist would use
17 on your mouth.
18 **Q You preferred their suction device versus**
19 **the one that Vida Spa had?**
20 A They had one for oral suction there, but
21 the one for the dentist was better.
22 **Q Okay. So, you were using the dental one**
23 **because you liked it better?**
24 A Yeah.
25 **Q Okay. The video that you were shown, was**

1 **that, you believe, Dr. Serrano's voice in there?**
2 A Yes. That's Spanish-speaking.
3 **Q And I know in your testimony you said, you**
4 **know, you talked about -- with Dr. Serrano you said**
5 **you trained for about six months?**
6 A Yes.
7 **Q And then he certified you?**
8 A Yes.
9 **Q And then even when he left -- when did he**
10 **leave again?**
11 A January sometime, I think.
12 **Q January, okay.**
13 **And -- but even when he left, you -- were**
14 **there other plastic surgeons and other doctors --**
15 A Yes.
16 **Q Let me finish.**
17 **-- other doctors coming in to do the**
18 **plastic surgery or lipo?**
19 A The doctors came in to do procedures.
20 **Q And when they came in -- at that time after**
21 **Dr. Serrano left, you could have done the**
22 **liposuction on your own. Is that correct?**
23 A Yes. But I let the other doctors do most
24 of them because I didn't feel like -- they had more
25 experience than I did.

1 **Q More experience than you.**
2 A Yes.
3 **Q Mr. White questioned you -- I thought it**
4 **was you -- there was a question about patient TTT**
5 **being dizzy after being given some type of**
6 **medication before the procedure.**
7 **Do you remember that?**
8 A Correct.
9 **Q Can you explain that to the hearing master.**
10 A She was given oxycodone, Xanax and
11 promethazine in a pill, which is -- promethazine
12 comes in liquid and pill -- and an antibiotic.
13 The three medications that would make her
14 dizzy because she was not opioid-tolerant would be
15 the oxycodone and definitely the promethazine
16 because it is a tranquilizer, basically.
17 **Q Okay. That was Vida Spa. You never gave--**
18 A No. Those were all.
19 **Q Let me finish.**
20 **-- you never gave or administered those**
21 **medicines?**
22 A Never.
23 **Q That was done even at a different part of**
24 **the spa. Is that correct?**
25 A Yes.

1 **Q Where was that done?**
2 A Usually downstairs at the desk when they
3 came in. They would be in prescription bottles
4 written by Dr. Borromeo.
5 **Q Or whoever else was the medical director?**
6 A Yes. And the patient would be given some
7 water to sip and take them an hour before the
8 procedure, because they were part of the sedation.
9 **Q Okay. So, you said the dizziness is being**
10 **opioid-intolerant?**
11 A Yes.
12 **Q Okay. If I gave you those opioids, would**
13 **you get dizzy?**
14 A I would be dizzy. I don't take any
15 opioids. I barely take ibuprofen.
16 **Q Have you ever taken an opioid?**
17 MR. WHITE: I'll object as relevance.
18 THE WITNESS: I just don't. But I know for
19 a fact --
20 MR. WHITE: Objection, relevance and calls
21 for speculation.
22 MR. FLANGAS: Okay.
23 BY MR. FLANGAS:
24 **Q How would you know that you would get dizzy**
25 **if you took opioids?**

1 A Because any person that's not
2 opioid-tolerant can get dizzy and react versus
3 someone that's used to taking them all the time.
4 Q Okay. So, that's -- that didn't matter.
5 That was understood why that patient TTT got dizzy?
6 A They were told and it was not a reason to
7 cancel the procedure.
8 Q Were they told they might get dizzy?
9 A Yes. Or they might have some reaction to
10 the medicine.
11 Q Okay. During the procedures when you were
12 an anesthesiologist, was the patients -- did they
13 have supplemental oxygen?
14 A Always.
15 Q Always?
16 A By nose, be nasal.
17 Q Okay. And was that -- was the oxygen
18 levels being monitored?
19 A By a pulse ox symmetry.
20 Q And the levels were based -- were put on
21 the chart, correct?
22 A On the graphic notes, yes.
23 Q And Patient TTT you saw the oxygen levels
24 were fine the whole time?
25 A They were very good.

1 **Q Okay. Is that one of the reasons, because**
2 **of supplemental oxygen given?**
3 A Yes. And sometimes the patient will have
4 that adequate level without oxygen, but they were
5 always given it.
6 **Q Okay. The next topic I want you -- can you**
7 **explain to the hearing master about the type of lipo**
8 **that's done in a medical facility versus the type of**
9 **lipo that would be done in a surgical center and the**
10 **differences.**
11 A The type of lipo that's done in a surgery
12 center is more of an operation because it can be a
13 bigger incision. The fat that can be removed can be
14 more than 5 liters versus the office procedure which
15 has to be under 5 liters of removal of fat.
16 The anesthesia is local anesthesia mostly,
17 unless they need a little extra with an office
18 procedure. It's lidocaine --
19 **Q Well, not -- okay. Go ahead. I'm sorry.**
20 A Epinephrine, which makes the vaso constrict
21 some so they don't bleed under the skin, because
22 you're putting lidocaine under the skin, and it can
23 dilate if you don't put epinephrine with it. So,
24 that's given as a local anesthetic and that's
25 usually the only one that's needed.

1 Now, the procedure in the office, the
2 patient -- they're designed so you're not taking
3 out that much fat so they're not gonna get
4 hypovolemic or have a problem, for the most part.
5 They are without eating or drinking in the morning,
6 so, obviously, they'll be a little dehydrated. You
7 might have to tell them to drink Gatorade or water
8 after the procedure.
9 But. For the most part they can go home
10 the same day, there's no big incisions. There's
11 just a puncture wound where the cannula, which is
12 about the size of an epidural needle used for labor
13 and delivery, and the fat that's sucked out is
14 through a cannula that's a little bit bigger than
15 that but not much.
16 So, there's no major incisions, stitching,
17 et cetera, and basically the patient can go to work
18 the next day. They do have to wear a compression
19 garment. That's an absolute requirement for all
20 these procedures because compression keeps the
21 bleeding from occurring, just -- if there is any,
22 and, basically, they have to wear that for six
23 months.
24 **Q Okay. The lipo procedures in an office**
25 **that are -- you're limited up to 5 liters?**

1 A Absolutely.

2 Q So, what I got from you, the lipo in a

3 surgical center you can go way above the five

4 liters.

5 A Oh, yes. And you definitely would need

6 more of a recovery period --

7 Q Okay.

8 A -- and followup period.

9 Q Would you say it's much more invasive?

10 A Oh, very much more invasive. And the

11 plastic surgeons do most of their procedures in

12 the--

13 Q Surgical center?

14 A -- surgical centers, so they have

15 anesthesiologists that are a team and everything,

16 like the person was talking about yesterday. He

17 works in a surgery center.

18 Q Okay. So, higher level --

19 A Definitely higher level, yes.

20 Q Okay. The office facility is designed for

21 them to leave the same day --

22 A Yes.

23 Q -- within hours?

24 A -- absolutely.

25 Now, surgery centers can be outpatient

1 which means they don't have an overnight facility
2 to keep the patient. So, they do have to discharge
3 them but they do have a recovery room so they have
4 a longer time period.
5 Now, anesthesia, our primary job is to
6 make sure the patient is stable, they're not
7 vomiting, they don't have too much extra pain, they
8 don't have bleeding and they're alert and oriented
9 when they leave, and that's what I always made sure
10 was in place.
11 Q Okay. When Mr. White was asking you about
12 what you would look at before you started the
13 procedure, Exhibit 102 -- what you would look at
14 when you were doing the procedure of a patient, and
15 you used the words, "I would do a reevaluation."
16 Is that correct?
17 A Well, to describe it as a "reevaluation,"
18 it's really my pre-op evaluation, pre-procedure
19 evaluation. I would look at lab work, history, to
20 see if the patient, which they should be for this
21 procedure, a young, healthy female or male without
22 any serious illnesses.
23 Q What I want to know is what would I look
24 at. I'll show you Exhibit 102. So, can you look
25 at, let's say, page 2554. Is that -- are these the

1 **paperworks that you would look at to reevaluate it**
2 **or evaluate it?**
3 A Yes.
4 **Q Okay.**
5 A That's part of the history.
6 **Q So, you would look at the patient's**
7 **history?**
8 A That's correct.
9 **Q Okay.**
10 MR. WHITE: What pages are you referring
11 to?
12 MR. FLANGAS: This is, for example, Patient
13 TTT pages 2554. We're just scrolling through to
14 page 2559 --
15 MR. WHITE: Okay.
16 MR. FLANGAS: -- which is, for the record,
17 like a patient questionnaire.
18 BY MR. FLANGAS:
19 **Q I just want to make sure there's no**
20 **confusion. The sales pitch markup -- when Gisselle**
21 **did the initial meeting to try to pitch them on**
22 **whatever she was pitching them, right?**
23 A The procedure.
24 **Q It would be liposuction, right?**
25 A Or whatever.

1 **Q Or would it be her diet program?**
2 A Uh-huh.
3 **Q Okay. We talked about her marking them up.**
4 A Yes.
5 **Q Okay. By the time they came for surgery**
6 **two weeks later, those marks were never there?**
7 A Correct.
8 **Q You never seen saw those marks?**
9 A Most of the time, no.
10 **Q Okay. So, you didn't go by those marks,**
11 **correct?**
12 A No, absolutely not.
13 **Q Okay. That was part of her trying to get**
14 **money from them to have them --**
15 A Her sales.
16 **Q -- for sales, okay.**
17 **What was her diet program?**
18 A They would be monitored by weight. They
19 would provide phentermine, which is a diet pill. I
20 don't know all of the medications that they might
21 have had. I know the blood pressures were monitored
22 because of the phentermine they had to be monitored.
23 **Q Okay. Sometimes she'd get them to do the**
24 **diet program and not -- first?**
25 A If they were over 200 pounds -- and,

1 obviously, we can't take off more than 5 liters --
2 the client would have to realize that the diet
3 program was the only thing available at this
4 office--
5 **Q Okay.**
6 A -- because you can't take off 5 liters off
7 200 pounds. It doesn't work. It requires more.
8 **Q I'm gonna now direct you to -- we're still**
9 **on Exhibit 102. I'll direct you to that exhibit and**
10 **page 2551. Is this part of the chart progress**
11 **notes?**
12 A Yes.
13 **Q Why don't you read it to yourself.**
14 (Witness reviewing document.)
15 BY MR. FLANGAS:
16 **Q So, was the patient -- tell me --**
17 A I'll read it out loud. "Regarding TTT,
18 patient after the procedure was talking and alert
19 and oriented. Then when she started walking out to
20 the car with the nurse, she felt faint and drowsy
21 and 9-1-1 was called to transport her to the
22 hospital. She was evaluated and kept in the
23 hospital for observation and treatment."
24 **Q Okay.**
25 THE HEARING OFFICER: By the way, for the

1 record, we're gonna strike the use of the actual
2 name of the patient.
3 THE WITNESS: Oh, sorry.
4 THE HEARING OFFICER: Just "TTT."
5 BY MR. FLANGAS:
6 **Q What do you do to determine that -- was the**
7 **patient oriented and alert?**
8 A Yes, she was.
9 **Q She was talking to you?**
10 A Yes.
11 **Q What do you do after each procedure? How**
12 **do you determine their mental status?**
13 A You talk to them, ask them how they are,
14 where they are, just general conversation. And they
15 respond and you realize that they're alert, oriented
16 and they know where they are.
17 **Q Okay. And did Patient TTT -- when she got**
18 **up, did she walk to the wheelchair?**
19 A Yes. Nurse was observing her but she was
20 there.
21 **Q Were you there too?**
22 A I saw her. I was in the room.
23 **Q Okay.**
24 A I wasn't doing anything with her.
25 **Q Okay. When you say you're not doing**

1 **anything with her, you were just watching her?**
2 A The nurse has to put the compression
3 garment on, and I can describe this. It's like a
4 girdle and it's extremely elastic and sometimes it
5 takes two people to pull it on -- I'm not
6 exaggerating -- because it's supposed to fit tight
7 and it keeps any superficial -- any bleeding under
8 the skin and so forth.
9 And it does help compress the vaso or keep
10 the vasodilation from happening so the patient
11 doesn't get dizzy as much, because they have to
12 replace their fluids that they haven't had for 12
13 hours or so.
14 **Q Did -- okay. So, the patient -- did the**
15 **patient walk to the wheelchair unassisted?**
16 A Yeah. After the nurse helped her put the
17 compression garment on them.
18 **Q How long did you talk to Patient TTT after**
19 **the procedure to determine that her mental status**
20 **was fine?**
21 A 20 or 30 minutes, just, you know, until the
22 nurse had the paperwork in hand and took her
23 downstairs.
24 **Q So, it's something where you're there, the**
25 **nurse is there, she's putting on the pressure suit**

1 **and they're talking and you're watching?**
2 A Yeah. And the clothes go on over the
3 compression garment.
4 **Q And that was a 20- to 30-minute period?**
5 A Yes.
6 **Q And didn't type that up in the notes,**
7 **right?**
8 A No. This is the first time I've seen it,
9 actually.
10 **Q That's the first time you saw that too?**
11 A Yeah.
12 **Q That's -- but you would agree that --**
13 A Yeah.
14 **Q -- it was clear. Would you have let her go**
15 **if she was not alert or oriented?**
16 A I would have questioned it to see what her
17 condition was and what the best disposition would
18 be.
19 **Q Okay. And I believe Dr. Belsky talked**
20 **about -- she was being monitored -- the procedure**
21 **ended at 2:31. I'm looking at page 2552 now. The**
22 **procedure ended at what time -- is that correct,**
23 **2:31?**
24 A Yeah, 1431.
25 **Q 1431 the procedure ended, right, but she**

1 **was being monitored all the way ...**

2 (Witness reviewing document.)

3 THE WITNESS: They don't have the ambulance

4 time on here but the report was given to the

5 paramedic.

6 BY MR. FLANGAS:

7 **Q Okay. So, you called the ER at 4:30?**

8 A No. I called -- it was about -- when we

9 walked downstairs about 30 minutes or so.

10 **Q I'm sorry. Then afterwards you talked to**

11 **the ER, correct?**

12 A Correct.

13 **Q And I think we already established that you**

14 **wrote the handwriting down below and above after you**

15 **talked to the ER, correct?**

16 A Yes.

17 **Q And you guys could just as easily already**

18 **covered it. Did we talk about checking the patient**

19 **every 15 minutes?**

20 A Yes.

21 **Q We already talked about that?**

22 A Because she was awake.

23 **Q Because she was awake?**

24 A Yes, and talking.

25 **Q In your opinion it's okay when they're --**

1 A Alert and oriented and talking.
2 **Q -- during the procedure --**
3 A Yes.
4 **Q -- to do it every 15 minutes?**
5 A Correct.
6 **Q Okay. If you're in a surgical center, how**
7 **often would you check the vitals?**
8 A Every five, depending, and sometimes more,
9 but it's a totally different situation.
10 **Q Okay. You can't ask me any questions and**
11 **you could talk and see if Mr. White objects.**
12 **Do you have something to say?**
13 A Yes.
14 **Q What do you want to say?**
15 A You know, the procedure, you compare -- you
16 compare the surgery center procedure of liposuction
17 to the office procedure, it would be like an office
18 procedure you go in and have somebody sew up a
19 wound, you know or something. The amount of
20 anesthesia that you're getting is minimal, you know.
21 They numb it and they -- it's just --
22 **Q Less invasive?**
23 A Very less invasive and you're awake.
24 MR. FLANGAS: Okay. That's all.
25 THE HEARING OFFICER: I have some

1 followups.

2 RE-REDIRECT EXAMINATION

3 BY MR. WHITE:

4 **Q So, you just asked a question about -- you**

5 **were asked a question about supplemental oxygen, and**

6 **I think you mentioned that she was on supplemental**

7 **oxygen, right?**

8 A It was always given to every patient --

9 **Q Okay.**

10 A -- that was going to have any -- that she

11 got medications here. These medications that Dr.

12 Borromeo prescribed could depress her oxygen level.

13 **Q So, she was on it and -- but would -- what**

14 **Dr. Janes talked about yesterday is there's no**

15 **indication in these records to show she was on**

16 **oxygen.**

17 **So, if another doctor looked at it, there**

18 **was nothing to have indicated she was on**

19 **supplemental oxygen, unless you could point it out**

20 **to me that shows she was on supplemental oxygen**

21 **other than you saying she was.**

22 A In a surgery center that would be required.

23 In an office, a doctor's office, outpatient, that

24 would not be required.

25 This pulse ox shows that she was

1 adequately oxygenated so, therefore, there's not
2 even a reason to give her oxygen.
3 All these procedures don't have to be
4 given oxygen but they are, or if they get
5 medication that might depress their respirations,
6 such as the Percocet, then it's a safety issue.
7 **Q Why not write "Supplemental oxygen started**
8 **at" time?**
9 A Because sometimes --
10 **Q -- "female patient, patient taken off**
11 **supplemental oxygen at" and then a time. It would**
12 **take two sentences. Why not write them?**
13 A It's just not required and it's not
14 routinely written.
15 **Q And this pulse oximeter, what does it look**
16 **like, this machine?**
17 A It goes on your thumb or finger.
18 **Q Okay.**
19 A And it's actually a nano wave. It goes
20 through the blood vessel and it reflects the -- I
21 could say oxygen concentration of the artery.
22 **Q Is it hooked up to any other machine in the**
23 **office?**
24 A No.
25 **Q Is it just a little rechargeable or do you**

1 **have to change the batteries?**
2 A You have some that are hooked to the
3 monitor which monitors blood pressure and heart
4 rate. But some of them are just a little, you know,
5 on your finger (indicating).
6 **Q Okay. Like a finger cup?**
7 A Yes.
8 **Q This is something any one of us could order**
9 **off Amazon?**
10 A During COVID, actually, they would do that,
11 give the patient a little trans -- you know, what do
12 you call it -- one they could take and use anywhere
13 to make sure they weren't getting short of breath,
14 because that was one of the main complications.
15 **Q So, if you know, Dr. Phillips, you were**
16 **asked a question about surgery center versus an**
17 **office visit.**
18 A Correct.
19 **Q Do you consider Vida Spa an office visit?**
20 A Oh, definitely.
21 **Q Not a surgery center?**
22 A Absolutely not.
23 **Q I think you said the difference is more**
24 **invasive surgeries can be done at a surgery center**
25 **than an office visit.**

1 A Definitely.

2 Q And there's also less volume loss.

3 Is that a way of putting it?

4 A You just don't take off more than 5 liters

5 if you're going to do it in an office. If you have

6 to take -- this lady had about 300 cc's, that's

7 almost 4 liters, but it's less.

8 Q Okay. And when you talk about that, what

9 are we actually talking -- what is the substance

10 that we're using -- I know you're going to have to

11 describe this, but what are we talking about when we

12 talk about less than 5 liters? Of what? Blood and

13 fat mixed together?

14 A It's fat and the tumescent solution.

15 Tumescent solution is normal saline, sterile in a

16 bag with the lidocaine injected into it with

17 epinephrine to constrict blood vessels.

18 It's injected through a cannula similar to

19 an epidural needle which is about a 14-gauge. It's

20 injected into the subcutaneously only and making

21 sure that you're right under the skin. It's

22 injected through the fat layer.

23 And then when you use the suction cannula,

24 the one that puts it in, it's, you know, not a high

25 volume. It doesn't cause any problems. It just

1 injects lidocaine and then you have to wait a few
2 minutes to make sure it's numbing everything.
3 And then the other cannula you put through
4 the same hole. You just take out one cannula and
5 put the other cannula through and then you proceed
6 to remove the tumescent, which is saline,
7 lidocaine, and the fat that comes with it, because
8 it'll break down the fat layer and this is all
9 subcutaneous.
10 **Q Is that why the fat almost seems to**
11 **resemble in the pictures we've seen and some of the**
12 **videos, it's kind of like an oily substance?**
13 A Yeah. It's fat, and it's bloody because
14 there's some blood vessels, obviously, in that
15 layer, and that's all.
16 **Q And the medication, does that turn into an**
17 **oily substance?**
18 A No. That's just fat. That's what it looks
19 like if you suck it out.
20 **Q And how do you -- when you first stick a**
21 **cannula in, whether it's doing abdominal where there**
22 **might be a larger cannula or what we saw you could**
23 **doing in the video, the chin lipo with a smaller**
24 **cannula, what's the first move to get under the**
25 **skin?**

1 A First you put a little lidocaine, just like
2 I would do if I'm doing a labor epidural with that
3 size of a needle. You numb it a little bit and then
4 you inject a little lidocaine so it doesn't hurt.
5 Then you -- sometimes it's not really
6 sharp so you have to make a little nick, you know,
7 with a little puncture thing.
8 Q It's not a scalpel?
9 A No. You can use a scalpel but it's just
10 the tip. You just need it so you're not pushing on
11 the skin and trying to -- because the cannula is
12 rounded. It's not sharp. It's not cutting
13 anything.
14 So, you do have to make sure that it's,
15 you know -- there's an opening and then you just
16 insert it through under. And, like I said, instead
17 of putting in Juvederm or something like that,
18 you're taking out fat.
19 But you do put in some saline, probably
20 about 50 cc's, with the lidocaine so that you --
21 and let it sit and numb and then you just take it
22 out.
23 Q Now, to expand the questioning on surgery
24 center versus office visit, if you know, how many
25 people were turned away from Vida Spa because they

1 **were probably asking for more invasive surgery than**
2 **you were allowed to do and then also possibly more**
3 **volume -- they wanted more volume taken out?**
4 **If you know, how many people were turned**
5 **away from Vida Spa?**
6 A I don't know the exact numbers. I know
7 that they had -- and the owners had agreements with
8 surgeons that would take the cases.
9 And they got referrals from plastic
10 surgeons and other surgeons that would -- that was,
11 you know -- if somebody needed a tummy tuck, they
12 would refer to a plastic surgeon and it would be
13 done in a surgery center.
14 And if they felt like, you know, they just
15 wanted a little fat here and there, then they would
16 be referred back and they would go for the office
17 procedure.
18 **Q Okay. But you're not sure, then, of how**
19 **many were turned away?**
20 A No.
21 **Q Were you even close -- when you were**
22 **working there, you were on the second floor in a**
23 **room and a lot of these conversations, did they take**
24 **place down at the front desk on the first floor?**
25 A Or at Gisselle's office or the other areas.

1 I didn't ever go over there.

2 **Q Did she have an office in the facility?**

3 A Yes, she did.

4 **Q And you had testified you didn't do intake,**

5 **did you?**

6 A No.

7 **Q Intake, I mean, like talk to the patient**

8 **the first time they visited?**

9 A All I did was let them know that when the

10 patient came in for a procedure, I wanted to check

11 lab work, COVID, HIV, hemoglobin levels. Because if

12 a patient is too anemic or something, you can't do,

13 really, a procedure. Then they would be referred

14 out to somebody else.

15 **Q Okay. So, you advised whoever did the**

16 **intake the initial intake, which could be a few days**

17 **before a procedure, right?**

18 A Any time.

19 **Q You advised that person in the office that**

20 **was doing the intake that you were gonna require a**

21 **lab --**

22 A Yes.

23 **Q -- a lab test and you wanted the results**

24 **before.**

25 A Right, correct.

1 **Q You're on 102 there, I think. Exhibit 102.**
2 **Yesterday I think you had testified that it**
3 **usually was like a week or two before from when**
4 **Gisselle would mark them up until they came back for**
5 **their procedure, right?**
6 A Correct.
7 **Q Was that pretty common at Vida Spa?**
8 A Definitely.
9 **Q And you said they wouldn't come back with**
10 **the marks on them?**
11 A No.
12 **Q Okay. So, I'm looking at some dates here.**
13 **Let me point you to a specific page. So, we have a**
14 **consent for surgery for Patient TTT and --**
15 MR. FLANGAS: Which page?
16 MR. WHITE: 2550.
17 BY MR. WHITE:
18 **Q Isn't that the same -- there's a date of**
19 **6/27/20. Isn't that the same exact day of the**
20 **surgery?**
21 A I don't know.
22 **Q Let's go to 2552. Isn't that 6/27/2020?**
23 A that looks like it, yes.
24 **Q So, they signed the consent the same day as**
25 **the procedure?**

1 A I don't know, because I wasn't involved
2 with that.
3 **Q Well, it's dated though, right? You can at**
4 **least say that.**
5 A Yes, it's dated.
6 **Q Okay. And it's dated by -- it looks like**
7 **TTT signed it and then M. Ryan, who you have stated**
8 **is one of the RNs that worked there.**
9 A Yes.
10 **Q Did she work with you on this procedure?**
11 A I didn't really work with her. I just
12 briefly supervised her if she had questions about
13 the propofol.
14 **Q So, she was the one running the propofol**
15 **machine during this procedure?**
16 A Yes.
17 **Q Okay. So, it looks like they both signed**
18 **it for 6/27/20. Do you agree with that?**
19 A The consents were signed ahead of the
20 procedure and some of them were signed --
21 **Q Day off?**
22 A -- on different days. I don't know about
23 day off.
24 **Q You weren't in those conversations, but if**
25 **you know, were sometimes the patients sent home with**

1 **a consent form to look at and then come back?**
2 A I don't know.
3 MR. FLANGAS: I'll object it calls for
4 speculation.
5 BY MR. WHITE:
6 **Q I said "if you know."**
7 A I know that they had to be in Spanish and
8 English, because most of the clients were not fluent
9 English speaking. And I don't feel like I'm a
10 translator to say that, okay, this patient has given
11 me a formal consent in Spanish.
12 So, it was a requirement, especially for
13 anything that I was involved with, that the patient
14 was -- described everything in Spanish and English
15 or their native language, and that was by the
16 interpreters wherever.
17 **Q Yeah. So, you don't know. Let's say you**
18 **probably don't know when they received their consent**
19 **forms --**
20 A No, I don't.
21 **Q -- whether they had time to look at them or**
22 **whether it was the day of.**
23 A That's correct.
24 **Q Now I'll ask you to turn to page 2554.**
25 **What are we looking at here?**

1 A This is a history on this patient.

2 **Q Was this history done before you would send**

3 **them to go do labs?**

4 A I don't know exactly when it was done, but

5 it was done sometime before the patient came to the

6 procedure room.

7 **Q Okay. Do you see a date at the top right**

8 **there?**

9 A Yeah. It looks like 6/27.

10 **Q So, same day as the procedure, right?**

11 A I don't know.

12 **Q All right. Turn to Exhibit 100. I believe**

13 **that's in the settlement agreement.**

14 THE HEARING OFFICER: Yes.

15 BY MR. WHITE:

16 **Q This is the settlement agreement from**

17 **September 9th, 2016, I'll represent, and we**

18 **established yesterday, Dr. Phillips, that you were**

19 **under the understanding that you were still under**

20 **the -- you were still under the conditions for this**

21 **because the 2019 settlement incorporated this**

22 **settlement, correct?**

23 A Correct. Yes.

24 **Q Okay. Now, I want you to turn to page**

25 **2525. Now, you stated a few minutes ago under**

1 **questioning from your attorney that you were --**
2 **we'll call him Dr. Ezeanolue. You worked for Dr.**
3 **Ezeanolue from October of 2019?**
4 A Yes.
5 **Q Until, you said, through COVID. I didn't**
6 **get the last date of when you stopped working.**
7 A I think it was the end of March.
8 **Q March of -- oh, when it first started,**
9 **March of 2020?**
10 A 2020, the next year, yeah.
11 **Q I'm going to -- he did pain management, you**
12 **said.**
13 A He did pain management. But I got the
14 understanding and cleared with the medical board
15 that I could do the Precision Surgery Center because
16 that was not in his pain office and I was not
17 dealing with the narcotics, the pain patients or
18 anything like that.
19 **Q So, help me understand.**
20 **Did he have two separate offices?**
21 A It's two separate -- yeah, it's a surgery
22 center and a medical office, doctor's office.
23 **Q Okay. So --**
24 A I only worked in the surgery center.
25 **Q Surgery center?**

1 A Yes. And I only --

2 Q What was done in the doctor's office?

3 A Whatever a pain management doctor does,

4 which would be all -- he sees patients, he has other

5 doctors in there.

6 Q So -- okay.

7 A Yeah.

8 Q I wanted you to clarify.

9 So, the medical office was the pain

10 management part of his office?

11 A Yes.

12 Q And you worked in the surgery center?

13 A In the surgery center doing anesthesia and

14 not doing pain management.

15 Q Okay. Look at line five at the bottom of

16 the page or paragraph 5, I guess. You can read that

17 to yourself.

18 (Witness reviewing document.)

19 THE WITNESS: That was cleared with the

20 medical board, by the way.

21 BY MR. WHITE:

22 Q Okay. It was?

23 A Yes.

24 Q You cleared it with them that you could go

25 work for Dr. Ezeanolue?

1 A Yes. And Leo actually was involved in that
2 as well (indicating).
3 Q Okay.
4 A And they understood that. I would never do
5 anything to violate my agreement on this
6 (indicating.)
7 THE HEARING OFFICER: Was the trigger to
8 the Board allowing you to do that the fact that you
9 were working under the direction of another doctor?
10 Is that why --
11 THE WITNESS: Yes. There was --
12 MR. FLANGAS: No. Can I -- the trigger --
13 she can't do anything regarding pain, but she could
14 do anesthesiology. That's why she was allowed to go
15 to the surgical center.
16 BY MR. FLANGAS:
17 Q As a matter of fact, did you even go to the
18 pain office?
19 A No.
20 Q Why did he not even want to step in the
21 door of the pain office.
22 A Because I was told I'm working only in the
23 surgery center and it's not a violation.
24 Q Were you scared?
25 A Yeah. I was like, No, I don't want this.

1 MR. FLANGAS: She didn't even walk in the
2 door she was so scared.
3 THE HEARING OFFICER: Okay.
4 BY MR. WHITE:
5 **Q I have one more followup question back to**
6 **what you did when you were talking about Flumaznil.**
7 **You had said that because office visits are**
8 **quick, right?**
9 A Yes.
10 **Q They're faster. They don't take as long as**
11 **they do procedures that go on in a surgery center.**
12 A Correct.
13 **Q That Flumaznil is used more often -- I**
14 **don't want to put words in your mouth.**
15 **What did you say?**
16 A It would be probably -- well, it's still
17 the doctor's decision, but it would be used more
18 frequently because it's kinda like you want the
19 patient to hurry up and, you know, get out from
20 under the influence of the medications --
21 **Q Okay.**
22 A -- so that you can evaluate them.
23 **Q Okay. Did you have more surgeries**
24 **scheduled too --**
25 A For?

1 **Q -- or for liposuction scheduled?**
2 A No.
3 **Q How many did you do a day?**
4 A Just one.
5 **Q Does propofol have a pretty quick time that**
6 **it wears off?**
7 A Absolutely. It's on and off within five
8 minutes.
9 **Q So, I guess my followup question is, Why**
10 **the need for Flumaznil when propofol wears off in**
11 **five or so minutes and you're saying that this**
12 **Patient TTT that we're talking about was there for**
13 **20 to 30 minutes?**
14 A Well, this patient had the benzodiazepine,
15 the midazolam, onboard and that was what the
16 reversal was for. Flumaznil does not affect
17 propofol in any way and it wasn't given to reverse
18 any effects of propofol.
19 **Q Then I got to ask you more questions when**
20 **you said before when your attorney asked you that --**
21 **and you just said it now too -- that you used**
22 **Flumaznil more frequently in an office visit**
23 **setting, are every one of those patients given a**
24 **benzo?**
25 A The ones from Dr. Borromeo pretty much

1 were. They aren't always with everything.

2 Q Did you ever use Flumaznil on a person that

3 wasn't given a benzo and they were just coming off

4 of propofol?

5 A No, never.

6 MR. WHITE: That's about all I have. One

7 second, actually.

8 BY MR. WHITE:

9 Q Doctor, would you consider giving somebody

10 local anesthesia for pain management?

11 A Local anesthesia is used in pain management

12 with labor epidurals. It's used for catheters that

13 are implanted under the skin after a surgery, such

14 as a knee surgery, and they have a little lidocaine

15 pump on it.

16 It's used for pre-procedure. Like if

17 you're going to do a facet block, you would

18 localize the skin with lidocaine. It's --

19 Q So, that's considered pain management, a

20 lidocaine injection?

21 A Lidocaine is just a local anesthetic. It's

22 an anesthetic. It's not used to treat the pain

23 chronically. The opioids and so forth and

24 everything is the pain medication.

25 Q Okay. Which is more what we would describe

1 **managing long-term pain?**
2 A Yes. That's management of chronic pain.
3 **Q So, you wouldn't -- would you consider any**
4 **of what you did, doing injections of anesthetic, to**
5 **be able to perform a liposuction or anything else,**
6 **would you consider that pain management?**
7 A No. It's medication. It's anesthetic.
8 Just like a labor epidural. I did thousands of
9 those.
10 MR. WHITE: I think that's all I have.
11 MR. FLANGAS: I don't have anything else.
12 THE HEARING OFFICER: I think I have just
13 one question.
14 From all of your training, education,
15 expertise, in your opinion is it common, at least in
16 a spa -- a medical spa setting, to give supplemental
17 oxygen and not chart it, not put it in the medical
18 record?
19 THE WITNESS: It would probably be standby
20 if the patient needs it. Most of the time they
21 don't need it and it's not given if their pulse ox
22 is adequate.
23 THE HEARING OFFICER: But if supplemental
24 oxygen is given -- again, I'm talking in a spa-type
25 setting -- would it be common to give supplemental

1 oxygen and not put that in the chart or in the
2 medical record.
3 THE WITNESS: I don't know. It wouldn't,
4 probably.
5 THE HEARING OFFICER: All right. Your
6 witness. Anything you want to ask as a result of my
7 question?
8 MR. WHITE: No. I think I asked that
9 question in a way and I think you phrased -- I think
10 I asked it in a way that, Why wouldn't you just
11 write down a couple of sentences that they were on
12 it and off it and maybe monitored somewhere along
13 the way.
14 THE HEARING OFFICER: And my question was
15 how common is it to give supplemental oxygen and not
16 chart it.
17 Do you have any questions as a result of my
18 question.
19 MR. FLANGAS: I don't think so. She was
20 saying it's not required, but you don't know whether
21 it's common not to put it down or not, right?
22 THE WITNESS: No.
23 THE HEARING OFFICER: Fair enough. All
24 right. So, at least as far as --
25 MR. WHITE: I do have a followup question

1 to that.

2 BY MR. WHITE:

3 **Q When we were talking about -- in Exhibit**

4 **102, page 2552, who was writing those down? We went**

5 **through it yesterday, but let's clarify.**

6 **Who was writing down those pulse ox**

7 **numbers?**

8 A The nurse.

9 **Q Okay.**

10 A And the monitor is, you know, on the

11 patient.

12 **Q So, this would have been MR?**

13 A Yeah.

14 **Q And she was also running the liposuction?**

15 A I guess Tammy. I don't know who.

16 **Q I'm sorry. Propofol. Sorry. I'm getting**

17 **them mixed up.**

18 **She was also running the propofol?**

19 A Yes.

20 **Q And taking down these numbers?**

21 A (Witness nods.)

22 BY MR. FLANGAS:

23 **Q Just one.**

24 **So, the nurse was writing down all the**

25 **vitals. This was her job, correct?**

1 A Yes, that's correct.

2 Q The nurse didn't put down the supplemental

3 oxygen there?

4 A No.

5 Q Okay. But you over -- and you had --

6 A She may not have had it the whole case,

7 anyway.

8 Q The testimony is it's your understanding

9 it's not required.

10 A That's right.

11 Q But you don't know if it's common not to

12 put it down or not in a medical facility?

13 A No.

14 Q Okay. You don't know. Okay.

15 A No.

16 BY MR. WHITE:

17 Q I want to seal this up a little bit.

18 I think at least twice you've testified you

19 supervised -- directly supervised the nurses.

20 A Yes. I'm standby for emergency.

21 MR. FLANGAS: Okay.

22 THE HEARING OFFICER: All right. So,

23 Mr. White, you are finished with Dr. Phillips in

24 terms of your case, correct?

25 MR. WHITE: Yes.

1 THE HEARING OFFICER: And she, obviously,
2 remains available if Mr. Flangas wants to call her.
3 MR. WHITE: We have everything in.
4 MR. FLANGAS: I have the PMK that's down
5 there. We could call him next.
6 Are you all done with your case?
7 MR. WHITE: I was just going to check and
8 see.
9 THE HEARING OFFICER: I can tell you what
10 is not in. Six is not in.
11 MR. WHITE: Hold on. I'm sorry.
12 THE HEARING OFFICER: 91, which correlates
13 with 6. Those are both letters from Lyn Beggs. 91
14 is not in.
15 And 107, 108 and 109 --
16 MR. WHITE: Would be argued.
17 THE HEARING OFFICER: -- are not in. And
18 103 and 104, I think I reserved on those as well.
19 MR. FLANGAS: What is 103 and 104?
20 THE HEARING OFFICER: 103 is the first
21 amended complaint against Tammy Hankins. 104 is the
22 findings, conclusions, and order on Hankins.
23 107 and 108, 107 is the American Society of
24 Anesthesiologists' Standards for Basic Anesthetic
25 Monitoring article, and 108 is also American Society

1 of Anesthesiology Standards for Post-Anesthesia
2 article.
3 109 was a CV from -- was that Dr. McCormack
4 or Dr. Janes?
5 MR. WHITE: We didn't mark Dr. McCormack's,
6 I don't believe.
7 THE HEARING OFFICER: So, again, 103 and
8 104 I had reserved ruling on. 107, 108, and 109 are
9 not in.
10 MR. WHITE: Not in, but we're still arguing
11 those.
12 THE HEARING OFFICER: Right. They're not
13 out. They're just not in.
14 MR. WHITE: Yes. 107 and 108 I would need
15 to bring back in Dr. Janes to at least -- bring him
16 back in to get those in, should we need them.
17 MR. FLANGAS: 109 we're supposed to do a
18 little outline. And then you better mark the other
19 CV as 110.
20 MR. WHITE: Yes.
21 MR. FLANGAS: Which would be
22 Dr. McCormack's.
23 MR. WHITE: Let's just mark it down as 110.
24 MR. FLANGAS: Would I be able to -- I'm
25 sorry. Would I be able to make -- get someone over

1 there to bring the witness in?
2 THE HEARING OFFICER: Let's go off the
3 record.
4 MR. FLANGAS: Are you all done, done?
5 MR. WHITE: I'm going to reserve the right
6 to call Dr. Janes back at least but we can -- we've
7 been calling witnesses out of order this whole time
8 and working with each other. I might just give a
9 phone call and listen on a cell phone, if that's
10 sufficient. You already saw his testimony. I would
11 call him to see if I can get him to at least talk
12 about the reports you -- the references that he
13 used.
14 THE HEARING OFFICER: Those articles.
15 MR. WHITE: Yes.
16 THE HEARING OFFICER: Okay. So, here's
17 what I think I'm hearing. Clarify for me if I'm
18 wrong.
19 With the possible exception of bringing Dr.
20 Janes back to get those articles in, you're wrapping
21 your case. We're done.
22 MR. WHITE: Yes.
23 THE HEARING OFFICER: Okay. Are you going
24 to object to him trying to bring Dr. Janes back?
25 MR. FLANGAS: No. If he wants to, I'll

1 work with him.

2 MR. WHITE: I will just --

3 MR. FLANGAS: Just on the articles.

4 MR. WHITE: Just authenticate the

5 references used. We won't go into anything else.

6 MR. FLANGAS: But if he does, I might need

7 to bring Dr. Belsky back for the same thing. We can

8 do it by audio on that too.

9 THE HEARING OFFICER: That's all good. Now

10 let's go off the record.

11 (Recess taken.)

12 THE HEARING OFFICER: Mr. Lovell, can you

13 hear us again?

14 THE WITNESS: Yes, I can.

15 THE HEARING OFFICER: I'm the hearing

16 officer, Charles Woodman, and we're now back on the

17 official record in the Nevada State Board of Medical

18 Examiners' case against Dr. Maryanne Phillips, M.D.

19 Dr. Phillips is here with us in the

20 conference room in the North. Her attorney, Mr.

21 Flangas, is present. The attorney for the

22 Investigative Committee of the Medical Board,

23 Mr. White, is present. His assistant is here. And

24 our reporter -- official reporter is present.

25 So, what will happen here is Mr. Flangas,

1 counsel for Dr. Phillips, will have the opportunity
2 to ask you some questions. When he finishes up,
3 Mr. White will have the opportunity to ask you
4 questions. Sometimes that goes back and forth a
5 couple of times, but both attorneys tell me they
6 don't plan you having to testify very long today.
7 So, with that, I'll ask you, to be sworn.
8 (Witness sworn.)
9 ***
10 JEREMY LOVELL,
11 called as a witness in the matter herein,
12 who, having been first duly sworn, was examined
13 and testified as follows:
14 THE HEARING OFFICER: Thank you, sir.
15 With that, Mr. Flangas.
16 DIRECT EXAMINATION
17 BY MR. FLANGAS:
18 **Q Mr. Lovell, can you -- I got my hand up.**
19 **Nice to meet you finally.**
20 **I talked to you on the phone earlier,**
21 **correct, several times?**
22 A Yes.
23 **Q Okay. Great. Can you tell the hearing**
24 **master where -- well, first of all, what causes you**
25 **to be here today? Did you receive a subpoena?**

1 A I received a subpoena from our Deputy
2 Attorney General's office.
3 Q It was a subpoena for the person most
4 knowledgeable for your department?
5 A Right. I'm the facilities inspector for
6 the Healthcare Quality Compliance in the State
7 Opioid Treatment Authority.
8 Q Okay. And that's for the health
9 department. Is that correct?
10 A That is for the Bureau of Healthcare
11 Quality --
12 Q Talk slower.
13 THE WITNESS: No problem. It is the Bureau
14 of Healthcare Quality and Compliance, which is a
15 division of the Bureau of Public Health.
16 THE HEARING OFFICER: Healthcare Quality
17 and Compliance.
18 THE WITNESS: Correct.
19 THE HEARING OFFICER: Thank you.
20 BY MR. FLANGAS:
21 Q So, how long have you worked for the
22 Healthcare Quality and Compliance Bureau?
23 A I've been an inspector for Healthcare
24 Quality and Compliance for about seven years and
25 just started the supervisor position within the last

1 month.

2 **Q Okay.**

3 MR. FLANGAS: I hate to do this. I'm

4 getting a call from the court right now. Can we

5 just go off the record for a minute?

6 Mr. Lovell, we have to go off the record

7 for a moment. I have to handle something.

8 (Recess taken.)

9 THE HEARING OFFICER: We'll go back on the

10 record. Thank you for your patience, Mr. Lovell.

11 Back to Mr. Flangas' questions of you.

12 BY MR. FLANGAS:

13 **Q So, generally, you're the PMK for your**

14 **department or your bureau.**

15 **Generally can you tell us in 2020 what**

16 **happened with the -- any possible licensing with**

17 **Vida Spa or compliance issues they had in 2020?**

18 A Think the only thing I can comment on is

19 what I read, because I was not involved with this

20 licensing issue.

21 There were emails in 2020 that were sent

22 from the health facilities inspector to Kyle

23 Parkson to Mr. Nelson, who had this position

24 previously, asking if they could close the case

25 because the Vida Spa had applied for a license with

1 our division. And the supervisor at the time had
2 replied back that they verified that the
3 application was pending and closed the case.
4 **Q What licensing are we talking about? It's**
5 **OPF. Can you explain that?**
6 A An OPF is -- so, Mr. Parkson had
7 investigated Vida Spa for OPF, outpatient facility,
8 which would need a permit to provide general
9 anesthesia, conscious sedation, or unconscious
10 sedation.
11 And Mr. Parkson had determined they were
12 operating without a permit, that Minou Nelson had
13 found that they had applied for a permit after the
14 investigation was completed and they had determined
15 they were operating without a permit. But because
16 they had applied for the permit, Mr. Parkson could
17 close the case.
18 **Q Okay. Is that kind of standard procedure**
19 **if the facility applies, then you'll close the case**
20 **instead of fine them?**
21 A That is an option depending on the
22 findings. If we can bring the facility that's
23 operating without a permit into compliance by having
24 them apply and get the permit, we will usually close
25 the case if we can bring them into compliance.

1 **Q Okay. And what was the date of that**
2 **interaction?**
3 A I don't recall without referring to those
4 documents. But I believe it was around October 2020
5 but I'm not 100 percent positive.
6 **Q Okay. Great. The next topic or the only**
7 **other topic I want to talk to you about is you're in**
8 **the compliance section of the -- your division -- do**
9 **you wall it a "bureau" or "department"?**
10 A Department.
11 **Q Okay. And can you explain to the hearing**
12 **master what does compliance mean? What do you do?**
13 **You go out and you check what?**
14 A So, after a facility receives the approval
15 from licensing, which is in Carson City, we ensure
16 compliance with the ongoing license. So, each
17 facility has a periodic inspection, or what we call
18 survey, and we go by and make sure they're still in
19 compliance and anything that is out of compliance we
20 will write what we call a "statement of
21 deficiencies."
22 And the facility would have to reply back
23 with a plan to correct it and we would review it
24 and, if appropriate, we would approve that line of
25 correction. And we also issue sanctions and we can

1 deny the license and we do the initial inspection
2 after licensing to ensure all the proper paperwork
3 is in order and we do the initial inspection after
4 licensing has done that paperwork.
5 **Q Okay. And specifically when you go out to**
6 **see if they're in compliance, can you just tell us**
7 **in general terms what does an OPF, outpatient**
8 **facility, need to have for you to say you're**
9 **compliant?**
10 A So, there are some documents and paperwork
11 and insurance that they would have to have that we
12 don't always check, so I'm not -- I'm not
13 100 percent sure on everything without referring to
14 the code of an OPF.
15 But when we go out to the facility, the
16 physical things that we look for can be a crash
17 cart, whether they have an infection control policy
18 regarding the instruments they use, do they have a
19 clean area set up and a dirty area, do they make
20 sure that those don't cross-contaminate, what type
21 of machine they're using to decontaminate their
22 devices that they're using, do they have the proper
23 PPE, which is personal protective equipment, are
24 the staff that are available licensed if they're
25 required to be licensed, are they certified if

1 they're required to be certified, do they have the
2 training required for the procedures that they're
3 offering, basic cleanliness, and that's related to
4 the services they're providing for an OPF, an
5 outpatient facility.
6 **Q In addition to that part, there's some**
7 **insurance requirement and bond requirement, correct?**
8 A There is. But I -- we don't usually follow
9 through with that. That would be licensing.
10 **Q Okay. So, to sum up, you make sure their**
11 **procedures are correct, their infectious procedures**
12 **are correct, they have a crash cart, the place is**
13 **clean, the staff is qualified, the machines are, I**
14 **guess, okay, or standard, right?**
15 A Machines usually have to have a maintenance
16 period and they have to take certain protocols to
17 make sure those machines are working correctly. And
18 we ensure that they did the protocols to ensure the
19 machines are working correctly, but in summary yes.
20 MR. FLANGAS: Okay. That's all.
21 THE HEARING OFFICER: Mr. White, do you
22 have questions?
23 MR. WHITE: Yes, thank you.
24 CROSS-EXAMINATION
25 BY MR. WHITE:

1 **Q Hello, Mr. Lovell. I'm Don White, Senior**
2 **Deputy General Counsel with the Medical Board.**
3 A Okay.
4 **Q I'm here on behalf of the Investigative**
5 **Committee.**
6 **Why does your department license facilities**
7 **for general anesthesia, if you know?**
8 A Did you say --
9 **Q Why do they license them?**
10 A To ensure the health and safety of the
11 public of Nevada --
12 **Q Is it --**
13 A -- and the drugs that they are
14 administering. If they're administered in improper
15 dosages can be dangerous to the patients that
16 they're treating.
17 **Q Would it be also that -- do you do more**
18 **inspections on facilities that are permitted to do**
19 **general anesthesia and sedation?**
20 A Yes. We do periodic inspections and we do
21 response to complaints. So, if the public or
22 another facility or a police department has a
23 complaint, even if it's OPF, we would respond.
24 **Q How often do you do a periodic inspection?**
25 A That can be annually to every six years.

1 Some facilities, if they present with numerous
2 complaints, we will bump those up to every year or
3 six months.
4 Q Thank you. Why was the inspection and
5 investigation started on Vida Spa, if you know?
6 A If you're referring to the unlicensed
7 inspection, it would be because we received a
8 complaint from a complainant that the facility was
9 operating without a license -- or a permit in this
10 case, because we call them "permits" for outpatient
11 facilities.
12 Q Okay. Was propofol allowed to be used at
13 this facility when you first inspected it?
14 A Again, I did not inspect this facility.
15 But propofol is commonly used for general anesthesia
16 sedation, so that would require a permit for an OPF.
17 Q You say "for an opiate"?
18 A "OPF."
19 Q Do you inspect medical records too?
20 A Yes, we do. If it's pertinent to the
21 investigation, correct.
22 Q Okay. And would that be if the inventory
23 of propofol or some other sedative is in dispute?
24 A It could be to determine if they documented
25 dosages and what that was used for it could be,

1 correct.

2 Q And can other medications like painkillers

3 and benzos be used to a point where it puts the

4 patient into a controlled state?

5 MR. FLANGAS: I'll just object it calls for

6 speculation.

7 MR. WHITE: It's in a letter.

8 MR. FLANGAS: In a letter?

9 MR. WHITE: It's in --

10 MR. FLANGAS: Okay.

11 MR. WHITE: Well, it's 48 and 49, page

12 1097. I can ask it a different way too.

13 THE HEARING OFFICER: Yes. You can put a

14 little bit of foundation behind it.

15 MR. WHITE: It's on Exhibit 48.

16 BY MR. WHITE:

17 Q Would a facility require a permit if they

18 used pain medication or benzos to put a patient into

19 a controlled state and not just use for anxiety?

20 A Correct.

21 Q Okay. That's a "yes"?

22 A Yes.

23 Q Is it the same permit we're talking about

24 that they would need for general anesthesia or

25 conscious sedation, deep sedation?

1 A Yes. That would be an outpatient facility,
2 or OPF.
3 **Q While a license is pending -- and in this**
4 **case Vida Spa's license was pending, you said,**
5 **correct?**
6 A Correct. They had applied for a license so
7 they were going through the licensing process.
8 **Q And how long can that take sometimes?**
9 A That can take up to a year --
10 **Q Okay.**
11 A -- depending on how fast the response from
12 the provider is to licensing and what paperwork --
13 how long they take to respond to the paperwork
14 needed.
15 **Q While it's pending are they allowed to use**
16 **general -- or to administer general anesthesia and**
17 **sedation at the facility?**
18 A No. If they do not have a permit, they are
19 still not allowed to operate.
20 **Q Did Vida Spa prior to this, what we've been**
21 **talking about in their application in 2020 and then**
22 **pending, had they ever applied for a license before**
23 **that, if you know?**
24 A I'm not familiar with Vida Spa before the
25 emails that were between Mr. Parkson and Minou

1 Nelson, so I don't recall.

2 **Q You had mentioned Mr. Flangas was**

3 **questioning you that you checked to see if the staff**

4 **was certified.**

5 **Who is qualified or even -- what kind of**

6 **certifications are you looking for in that situation**

7 **and who is qualified to even get certified, if you**

8 **know?**

9 A So, it depends on what type of procedures

10 they're doing and what the person they're having

11 administer certain procedures requires. If it's a

12 nurse, they need to have a nursing license. If it's

13 a physician, they need to have a physician's

14 license. If they are infection control, they have

15 to have certification in infection control. So, it

16 depends on the facility what type of services

17 they're providing.

18 **Q Okay. And if somebody is doing propofol,**

19 **like a nurse is doing propofol, it doesn't require**

20 **them -- do you require any more certification than**

21 **just they have a nursing license?**

22 A They still would have to have training in

23 infection control. Any training that's required for

24 the procedure that they have, they would have to

25 have up-to-date certifications depending on what

1 they're offering.

2 **Q Did you check into that? I know you didn't**

3 **do this thing, but did you -- if you know as you sit**

4 **here today, was that looked into, whether these**

5 **nurses that worked at Vida Spa were trained in**

6 **infection control?**

7 A I don't know. It wouldn't -- if we

8 determined they were offering sedation without a

9 permit, it wouldn't matter if they were certified or

10 not. They would have had to have a permit in order

11 to offer any services, so whether they were

12 qualified or not wouldn't be applicable.

13 **Q So, you had basically what we call "prima**

14 **facie evidence" that they were getting shut down**

15 **from at least being able to do that propofol?**

16 A Correct.

17 **Q Okay. So, kind of the hunt stopped there?**

18 A Right.

19 **Q Did you receive, if you know, any other**

20 **complaints against Vida Spa?**

21 A I don't recall if there was a denial of a

22 license and I don't recall if that was because of

23 additional compliance. I didn't review that.

24 **Q Okay. Did Vida Spa ever obtain a license**

25 **to do general anesthesia?**

1 A From the records that I reviewed, no. We
2 denied the -- we denied the permit.
3 **Q And they didn't apply again?**
4 A From the records that I reviewed, it did
5 not appear so.
6 **Q Have you ever seen anything like the --**
7 **it's contained, I think, in the letter -- do you**
8 **have a binder in front of you?**
9 A I do.
10 **Q Can you take a look at Exhibit 49. There**
11 **are a whole bunch of them, so if you can just look**
12 **for a tab that says "49."**
13 A (Witness complies.)
14 **Q This exhibit has been marked and admitted**
15 **so we can go through it.**
16 A I think I have Exhibit 49.
17 **Q There's a line there I want you to read.**
18 **It says -- oh, sorry. Page 1097.**
19 **It says, "The RN explained the physician**
20 **was in charge of the propofol." Do you see that**
21 **line? Do you know who they were talking about,**
22 **which physician?**
23 MR. FLANGAS: I'll object it calls for
24 speculation.
25 THE HEARING OFFICER: Well, if he knows.

1 BY MR. WHITE:

2 Q If you know.

3 A I would not know unless there was an

4 identifier sheet.

5 Q Okay. At the top of the page 1097 do you

6 see where it talks about a Sedation Log Sheet?

7 A Yes.

8 Q How long have you -- I didn't hear before

9 -- I think you were working there about six years,

10 did you say?

11 A Almost seven years.

12 Q Okay. Have you done plenty of inspections

13 similar to this?

14 A I've done hundreds of them, licensed

15 inspections and hundreds of license inspections.

16 Q Have you ever seen something like a

17 Sedation Log Sheet?

18 A Usually those would be at a permitted OPF,

19 yes.

20 Q Okay. And, again, it was kind of the end

21 of the hunt when you found out they were not

22 licensed?

23 A Again, I was not involved in this so it

24 wasn't the end of the hunt for myself. But if we

25 determined that they were doing any services,

1 there's not always -- if we find supporting
2 documentation that would indicate that they were
3 operating without an OPF, that would be included.
4 **Q Okay. I want you to go down to page 7.**
5 A Okay.
6 **Q Just above that it says, "Review of**
7 **patient's chart lacked document evidence propofol or**
8 **Versed were used in these surgeries."**
9 **Is that a concern when the patient's**
10 **medical records lack that documentation?**
11 A Even if a permitted OPF, it would be
12 because they need to record what dosages were used
13 so that we can see they were administered
14 appropriately and safely.
15 MR. WHITE: Thank you. That's all I have.
16 THE HEARING OFFICER: Do you have anything
17 further?
18 MR. FLANGAS: No.
19 THE HEARING OFFICER: Okay. Mr. Lovell,
20 our court reporter may have a couple of questions to
21 clarify some words in the record.
22 (Discussion off the record.)
23 THE HEARING OFFICER: Mr. Lovell, thank you
24 very much for making time for us today. Your
25 testimony is very much appreciated. It's an

1 important part of our record and you're free to go.
2 MR. FLANGAS: Hello, we have you on speaker
3 here, Dr. Miller.
4 THE HEARING OFFICER: We're back on the
5 record now and Dr. Miller won't come as any surprise
6 to you that Mr. Flangas is going to get to ask you
7 questions first and then following his examination,
8 then Mr. White will have the opportunity to
9 cross-examine you.
10 THE WITNESS: Yes, sir.
11 THE HEARING OFFICER: Okay: Mr. Flangas,
12 when you're ready.
13 (Witness sworn.)
14 ***
15 ALLEN MILLER, M.D.,
16 called as a witness in the matter herein,
17 who, having been first duly sworn, was examined
18 and testified as follows:
19 DIRECT EXAMINATION
20 BY MR. FLANGAS:
21 **Q Dr. Allen Miller, can you tell the hearing**
22 **master what -- you could state the full name for the**
23 **record of BHS Company and what they do?**
24 A That's correct. It's Bionutraceutical
25 Health Solutions, which is spelled

1 B-i-o-n-u-t-r-a-c-e-u-t-i-c-a-l, and we'll refer to
2 it as "BHS," if that's okay.
3 **Q Okay. Can you tell us what that company**
4 **does and what the business is.**
5 A We have a startup and pilot program with
6 ICON of Nevada and S&C Claims using CBD formulas I
7 formulated to treat opiate and chronic pain
8 dependence for worker's comp.
9 **Q Okay. When did you get -- or start -- how**
10 **should I --**
11 A We went to contract with S&C Claims and
12 ICON November of -- I think it was November of 2018
13 or a little bit earlier. We had been -- I had a
14 relationship -- a long-term relationship with those
15 two insurance companies, the claims management
16 company and they're the ones that commissioned this
17 product line based on experiences that I have.
18 **Q When did you come into contact with**
19 **Dr. Maryanne Phillips in relationship to her working**
20 **for BHS?**
21 A That was in early -- either end of January
22 or early February of 2019.
23 **Q Okay. Can you tell me about it?**
24 A Yeah. We had met at a social event
25 innocuously and she was talking about her experience

1 and background. I needed a medical director and she
2 was just -- crossed many different boundaries as far
3 as her expertise in nutrition, alternative medical,
4 but then she had all of her other certifications and
5 we found her to be absolutely brilliant.
6 Q What did -- did she develop something for
7 BHS?
8 A Yeah. She had some products that she had
9 been using in practice and I'm -- I don't recall if
10 they were first brought on when she was in a nursing
11 career or as a doctor, but she had many different
12 products that subsided pain.
13 We had a problem in our company
14 background -- if you want me to discuss it -- but
15 her products completely changed the direction of
16 our company --
17 Q Okay.
18 A -- and gave us a 78 percent success rate in
19 transferring people off opioids without any after
20 effects.
21 Q Okay. Let's get to what was your
22 impressions of Dr. Maryanne Phillips?
23 A Oh, she's absolutely brilliant. She's
24 really more -- very high functioning, highly
25 intelligent, really a scientific mind.

1 But the one thing she had is she had an
2 expertise in nutrition and a lot of things that we
3 needed that fit within our purview of the effects
4 of opioids. She's almost on the spectrum, a very
5 scientific mind.
6 Q What do you mean "on the spectrum"?
7 A I don't know if you call it "Asperger's"
8 but she's just highly intelligent. Takes social
9 context and people at face value. Naive in a lot of
10 social contexts, is the best way to say it.
11 Absolutely brilliant, one of the more brilliant
12 doctors I've worked with.
13 Q When you say she takes -- on a social
14 context, you're saying she's kind of a little bit on
15 the spectrum as far as how she relates.
16 Is that correct?
17 A That's correct. And I'm responsible for
18 her meeting Gisselle.
19 Q Let me ask you this: Did it come time
20 where you introduced her to Gisselle and she asked
21 if she could work -- do some independent work with
22 Gisselle?
23 A Yes. Dr. Phillips had accompanied me.
24 There was a product that we were considering and was
25 demoed to us, a nutritional product based on blood

1 and disease. And I took Dr. Phillips with me to
2 that meeting to analyze it on our behalf, at which
3 point I had met Gisselle before I knew her financial
4 endeavors and I introduced them.
5 And Gisselle asked if she wanted to come
6 to work for her -- Dr. Phillips would come to work
7 for her. Of course, Dr. Phillips then asked me and
8 then she was still my medical director during those
9 times. Yes.
10 **Q Did you ever see Gisselle's place?**
11 A Yeah, I did.
12 **Q Okay. What was your impression -- I mean,**
13 **you now know they were an unlicensed facility,**
14 **right?**
15 A Yeah. I'm shocked. They were looking to
16 expand the office, I would almost say, Beverly
17 Hills-esque. It was absolutely gorgeous in a nice
18 part of town, the equipment up to date and
19 furnishings were beautiful and everybody was very
20 beautiful. I'm kinda really shocked. I feel
21 responsible. I had no idea it was an unlicensed
22 facility, would not have thought.
23 MR. FLANGAS: Okay. That's all.
24 THE HEARING OFFICER: Pass the witness?
25 CROSS-EXAMINATION

1 BY MR. WHITE:

2 **Q This is Don White.**

3 A Yes, sir, Mr. White.

4 **Q Are you a psychologist?**

5 A No.

6 **Q So, you can't diagnose Dr. Phillips as**

7 **having Asperger's or being on the spectrum of some**

8 **sort?**

9 A That's correct.

10 **Q Doctor, BHS is a pain management company or**

11 **practice that you have?**

12 A No, it's not.

13 **Q It's not?**

14 **How would you describe what you -- how is**

15 **it different than pain management?**

16 A We formulate a product specifically for

17 chronic pain and opioids dependence working with the

18 treating physician directly and coordinated through

19 the worker's comp carrier.

20 **Q So, do you prescribe out of there?**

21 A You don't need to -- Mr. White, you don't

22 need to prescribe CBDs. It's a recommendation. The

23 patient is -- the doctors are sent our product and

24 we have a certain set of protocols that we provide

25 them, and subsequently they're given to the patient

1 and we manage that formulation specifically.

2 **Q Okay. So, I guess, I should ask this**

3 **first. You had mentioned her product really helped**

4 **you, something like 80 percent helped your business.**

5 A That's correct.

6 **Q What were those products?**

7 A I'm in an interesting area here. We

8 license those and those are proprietary to us now.

9 One is a shot that we refer to as the

10 "Bridge Shot" and there's a topical creams that she

11 formulated. And then there's a vitamin that we are

12 looking to formulate and put on -- put into this

13 equation as well.

14 THE HEARING OFFICER: Quick interruption.

15 What did you call that shot, Dr. Miller?

16 THE WITNESS: We refer to it as the "Bridge

17 Shot", the reason being, sir, is in opioid

18 dependence CBDs take two weeks to start taking

19 effect in the ramp-up time.

20 The problem is these patients want

21 immediate results and CBDs don't do that. And we

22 don't have THC in them so we needed to find a way

23 that was non-narcotic that would, in essence, bridge

24 the part that would help subside some of the

25 patient's pain and, like I said, give enough time

1 where CBDs would take effect and transfer off those
2 shots if necessary. They're non-addicting and
3 non-narcotic.
4 THE HEARING OFFICER: Thank you. Please
5 continue.
6 BY MR. WHITE:
7 Q I'll ask you again, because you said
8 something about helping the patients subside pain.
9 Is there -- you do not consider yourself the BHS
10 pain management practice?
11 A No. We provide these products for the
12 doctors and train them how to use them. And they
13 subsequently use them and it's for the patient and
14 they're paid directly from the worker's comp
15 carrier.
16 Q And Dr. Phillips works there?
17 A Works for me, yes.
18 Q Where is your office?
19 A On 2121 East Flamingo.
20 Q Okay. What did she do there exactly? Did
21 she help you formulate these products?
22 A Yes, helped me. And her understanding of
23 pain mechanisms led us down to better facilitate
24 pain management. She has no patient contact. It
25 was for protocols and products for -- as I said, it

1 was the use by treating physicians.

2 **Q And it sounds like everything's involving**

3 **CBD. Is that correct? Are there other things we**

4 **ought to know about? Any other medications or**

5 **ingredients we ought to know about?**

6 A No.

7 **Q Just CBD?**

8 A Yeah, CBD, vitamins and nutritional

9 supplements, things like that. You know, I did

10 converse with your department, Mr. Ripley, way back

11 in 2019 declaring what we were doing. We were

12 invited up to present this to the Board but then

13 COVID hit and you know how that went.

14 **Q Can you say the name.**

15 A Ripley. I could have it wrong.

16 **Q Maybe "Kilroy."**

17 A Kilroy, that was it. I'm sorry. Forgive

18 me.

19 **Q Okay. I didn't recognize. I do recognize**

20 **the name Kilroy. I didn't recognize "Ripley."**

21 A I'm sorry.

22 **Q That's okay.**

23 MR. WHITE: That's all I have. Thank you.

24 THE HEARING OFFICER: Any redirect?

25 MR. FLANGAS: No. That's it.

1 THE HEARING OFFICER: All right. So, we
2 will excuse Dr. Miller. Thank you.
3 MR. FLANGAS: I'll rest.
4 THE HEARING OFFICER: So, thank you for
5 that. What do you want to do with Mr. Janes? It's
6 up to you.
7 MR. FLANGAS: Let me read through it over
8 lunch because I know -- I just had Maryanne look at
9 it. It doesn't say anything about five minutes but
10 that's for general anesthesia. That's why I was
11 wondering why you wanted it, because it's only five
12 minutes for general anesthesia, not for conscious
13 sedation, right?
14 THE HEARING OFFICER: So, it may not make
15 much difference if it's in or not.
16 MR. WHITE: He relied on that for his -- I
17 think he referred to them yesterday when he was
18 being -- when I was doing direct examination. It's
19 just a matter of what he used to from form his
20 opinion.
21 MR. FLANGAS: Okay. You know, let me read
22 through it. My understanding --
23 MR. WHITE: No pressure.
24 MR. FLANGAS: I'm not the doctor here. I
25 asked Dr. Belsky and she said that's one society out

1 of many. I belong to this other society I'm a
2 member of and she said that's not -- she said
3 something to the effect that the five minutes has to
4 do with general anesthesia.
5 I don't know what else -- if there was --
6 Leo, if you say this is what I'm using it for.
7 MR. WHITE: It's up for debate whether
8 propofol can be used for either, general sedation,
9 conscious sedation, deep sedation.
10 MR. FLANGAS: Yes. But general anesthesia
11 propofol is when they're out so they could be
12 intubated and use propofol.
13 THE WITNESS: They can use it at any time
14 period, yes.
15 MR. FLANGAS: If they're not intubated and
16 there's no gases coming in then that's not general
17 anesthesia.
18 DR. PHILLIPS: There's procedures to
19 setting a leg or a fracture.
20 MR. FLANGAS: Okay.
21 THE HEARING OFFICER: All right. We'll
22 address those two outstanding exhibits when we get
23 back after lunch. You can give us an update on
24 where we are with Dr. Janes and whether we put him
25 on or not. We will get to argument when that issue

1 is over. We are clear at 1:10. I had no idea. My
2 apologies to our reporter.
3 Why don't we plan on hitting it at 2:15,
4 whatever it is we are doing, whether that's getting
5 Dr. Janes back on or just going to closing arguments
6 or clean up the issue with those two outstanding
7 exhibits. (Lunch recess taken.)
8 ***
9 THE HEARING OFFICER: So, we're back on the
10 record in the Nevada Board Medical Examiners' case
11 against Dr. Maryanne Phillips. Dr. Phillips is
12 present with her counsel and counsel for the IC is
13 present.
14 Off the record we have addressed some
15 housekeeping issues that includes the following:
16 The IC's Exhibits 107 and 108 are stipulated into
17 evidence by counsel, so those are now in.
18 103 and 104 from the IC, those are being
19 withdrawn so they are out of evidence.
20 The other pending issue is the fact that
21 when it comes to expert testimony, as we have stated
22 previously on the record, counsel will have up
23 until -- I believe it was January 13th.
24 Am I correct, counsel?
25 MR. WHITE: Yes.

1 THE HEARING OFFICER: Friday,
2 January 13th to get me some bullet point briefing
3 on -- for and against the admissibility of that
4 expert testimony that we've addressed.
5 With that, we'll go to closing arguments,
6 and in typical fashion, Mr. White will give his
7 initial closing followed by Mr. Flangas. And then
8 if he likes to do so, Mr. White will have a reply
9 argument and we'll be wrapped.
10 CLOSING ARGUMENT
11 MR. WHITE: Okay, thank you.
12 On behalf of the Investigative Committee,
13 we'd like to thank you, Hearing Officer Woodman and
14 Madam Court reporter, Dr. Phillips, for your good
15 work and Mr. Flangas and the witnesses for their
16 time and consideration.
17 As I mentioned, we're here to present
18 evidence so the Board can determine if Dr. Phillips
19 violated the Medical Practice Act. You heard from
20 Johnna LaRue, Deputy Chief Investigator and
21 Compliance Officer. To summarize her testimony, she
22 authenticated several exhibits. She corroborated
23 the fact that she spoke with senior investigator
24 briefly about Ms. Friedman obtaining the Sedation
25 Log during an inspection in June of 2021 that came

1 two months after the second request for records.
2 What this means is no one at the spa,
3 including Dr. Phillips, wanted to disclose this
4 addiction log with the intent to conceal the use of
5 propofol in an unaccredited facility.
6 Ms. LaRue told you that despite
7 investigators having an average of 80 cases ongoing,
8 they still find the time to make courtesy calls for
9 licensees who don't provide records upon the Board's
10 second and sometimes third requests.
11 She testified as to Exhibits 40, 42, 43,
12 and 45 and was directed to show that Dr. Phillips
13 signed as the anesthesiologist in these examples of
14 many medical records for many patients. And these
15 are just examples of many other medical records for
16 many, many patients. It also shows that propofol
17 was not listed anywhere in those records, including
18 where medications were listed. However, those also
19 appeared on the sedation log, those patients did.
20 Patient TTT's records came quite a bit
21 earlier than the records -- the records of Exhibits
22 40, 42, 43 and 45. This shows that Vida Spa,
23 including Dr. Phillips, made a conscious effort to
24 conceal the use of propofol after being denied
25 credentials at Vida Spa, the credentials to actually

1 administer propofol there.

2 The custodian of records, we were able to

3 show through Ms. LaRue, is not responsible for

4 making sure that the records are timely, legible,

5 accurate and complete pursuant to NRS 63.3062, and

6 the question is who is? There's no doubt each

7 licensee is responsible in ensuring the records are

8 proper. No statutes in the Nevada Medical Practice

9 Act define a medical director. She testified to

10 many other things but I just want to highlight a few

11 things.

12 We also heard from Dr. Borremeo. He was

13 the so-called medical director of Vida Spa who

14 testified -- I think the only one -- and he said he

15 was not the custodian of records. He never saw the

16 entire facility of Vida Spa. Most importantly, he

17 was not shown the surgery room, he testified to

18 that.

19 He resigned as the so-called medical

20 director because they were doing liposuctions and he

21 did not sign up for that. I'm not quoting him but

22 that's how I wrote it. In particular he became very

23 concerned when Tammy Hankins called him to report

24 that Patient TTT had complications.

25 He never supervised Dr. Phillips. He met

1 her one time and it was a quick hello and goodbye.
2 One of the Board's experts, Dr. McCormack, testified
3 she owns her own facility where they perform various
4 types of plastic surgery including liposuction and
5 fat transfers. Her facility is licensed, not only
6 by the State of Nevada, but also federally to
7 provide anesthesia to patients for deep sedation and
8 other types. She schedules anesthesiologists from a
9 group of experienced anesthesiologists. In fact,
10 those anesthesiologists assisted Dr. McCormack in
11 gaining her accreditation at her facility to do
12 anesthesia.
13 Accreditation is important because it leads
14 to peer reviews and regular inspections is what she
15 said. She also testified that she, in her opinion,
16 as somebody who's been doing this for many years,
17 people's whose vitals who appear stable can quickly
18 destabilize, which could have maybe happened to
19 Patient TTT. Whenever Flumaznil is used on a
20 patient, the attending doctor should be more
21 concerned for their safety before discharging them.
22 This was her opinion. At her facility only licensed
23 anesthesiologists perform general anesthesia, not
24 nurses. And Dr. McCormack expressed concern that
25 the physician assistant was not being supervised

1 while doing liposuction and a fat transfer. The
2 totality of those circumstances was what
3 Dr. McCormack believed was malpractice.
4 Dr. Andrew Sheep testified out of order for
5 -- it was actually one of Respondent's witnesses,
6 and that he performed liposuctions at Vida Spa. Dr.
7 Phillips and a nurse practitioner under the
8 direction of that nurse practitioner being under the
9 direction of Dr. Phillips provided the anesthesia
10 while Dr. Sheep performed liposuction and fat
11 transfers. He also stated Ms. Platfoot showed him a
12 license which he thought showed credentialing to
13 provide general anesthesia, and that's -- I can't
14 remember what exhibit at the moment -- but it's in
15 there and it was the fire -- I think the fire
16 certificate from the county fire department.
17 Dr. Sheep correctly testified that he was
18 in charge of making sure his records were accurate
19 and complete regardless of whether or not he was the
20 custodian of records at Vida Spa. In other words,
21 it was his understanding he was in charge of keeping
22 accurate and complete records of the procedures he
23 did at Vida Spa.
24 Dr. Marjorie Belsky also testified. She
25 does not practice anesthesiology, at least hands on,

1 since 2004 and did it for three or four years. She
2 said that giving a patient Flumaznil is -- she had
3 said she had done it about ten or more times in four
4 years that she was practicing hands on as an
5 anesthesiologist. She also said that was a
6 physician preference, even though it carries a risk
7 of seizure. She said that while every medication
8 carries a risk of something and, sure, that's true,
9 Dr. Belsky is not a member of the American Society
10 of Anesthesiologists and she had said that. She's a
11 member of some other ones.
12 She did have a med spa, she testified, in
13 California and owned it in 2004 to 2005 but they
14 didn't do liposuctions. And she said that, I
15 believe, MAC sedation vitals should be checked every
16 five minutes.
17 Dr. Mark Janes, practicing in Nevada since
18 2000, a longtime career as a board-certified
19 anesthesiologist, has done thousands of procedures
20 as an anesthesiologist. He has used Flumaznil four
21 times in 22 years as a Nevada doctor. He saw
22 absolutely no reason to not include propofol in the
23 actual patient's medical records and never saw
24 anything like a separate sedation log in this
25 manner. Dr. Janes answered with a strong "no" when

1 asked if he ever worked at a med spa.
2 And he opined at the end of his testimony
3 that Dr. Phillips committed malpractice by not
4 monitoring TTT's vitals every five minutes, among
5 other problems, like no indication that supplemental
6 oxygen was being used. And then Dr. Phillips did
7 not have more concern for a patient that required
8 Flumaznil to reverse benzo administration.
9 You also heard today from Jeremy Lovell.
10 He's an inspector for the BHC QC. Told us that the
11 reason for the inspection, even though he didn't do
12 the inspection on this, he was here as the PMK. But
13 he testified that this originated by a complaint
14 that was sent in. The inspection of Vida Spa is
15 what I'm referring to. He also said he inspects
16 medical records as part of his inspection of the
17 facility and inspections can increase with more
18 complaints, but generally they're done every one
19 year or sometimes even as long as six years.
20 Propofol was not allowed at Vida Spa, even
21 while their application was pending and their
22 application -- they had an application pending for a
23 license to use -- to do sedation at the facility and
24 even while that application is pending they are not
25 allowed to do it and they were. Never discovered if

1 registered nurses were properly certified to
2 administer propofol at this facility, Vida Spa,
3 because the entire facility was not permitted. And
4 he had said that once that -- they discovered that,
5 they stopped their investigation because it was kind
6 of the end of the hunt at that point.
7 He also testified saying that they would
8 need a permit -- any facility, but Vida Spa being
9 one of those would need a permit even if they used
10 benzos and pain meds for sedation purposes.
11 Facility license is required because doses of
12 sedation could be dangerous, when I asked him that
13 question, and that's why he felt it was important
14 and why they are required by the state.
15 He also stated that propofol is required to
16 be in the medical records, which, as I alluded to
17 earlier, he does check in these investigations. And
18 I think the last thing -- one of the last things he
19 said that I'll highlight is that Vida Spa never
20 received a license to do sedation.
21 We heard from Dr. Phillips. She admitted
22 she supervises the nurses doing anesthesia and that
23 are using propofol and then would step in if
24 necessary. Dr. Phillips is not board-certified in
25 anesthesiology, not board-certified as a plastic

1 surgeon, and neither is she board-certified as a
2 cosmetic surgeon. She does not consider liposuction
3 surgery nor fat transfers surgery. Dr. Phillips
4 testified she would not have monitored TTT for any
5 longer if she could do it all over again. She
6 testified her responsibility -- it is her
7 responsibility to take responsibility for having
8 timely, legible, and complete and accurate records
9 despite not being the custodian of records.
10 She did have trouble answering some of the
11 questions I asked her about renewal but she renewed
12 her license in 2021. She has a license that's
13 suspended at the moment. Flumaznil is used in
14 outpatient more often. She testified to that today.
15 And then -- but that propofol wears off in five or
16 so minutes, but that even then they generally
17 incorporate Flumaznil in outpatient facilities.
18 Dr. Phillips seemed a little confused as to
19 when she did liposuctions but the video contained in
20 Exhibit 93 shows Dr. Phillips doing a chin
21 liposuction on or before December 16th, 2020.
22 This goes back to my comment earlier. She
23 use Flumaznil on Patient TTT, even though 20 to 30
24 minutes had passed from when she was trying to be
25 reawoken and the procedure was done and should have

1 been coming out of sedation sooner. Dr. Phillips,
2 when I asked, didn't know if there were lapses in
3 medical directors, meaning if there were gaps in
4 when the medical directors actually contracted with
5 Vida Spa.
6 Again, I'll state that Dr. Phillips knows
7 that her records have to be timely, legible,
8 accurate, and complete, but they're not complete.
9 She didn't say this part, but they're not complete
10 if they do not list propofol, and many did not.
11 Her timeline didn't check out regarding
12 intake of Patient TTT and the date of the procedure
13 because they are the same, the same date, intake and
14 the date of the procedure; whereas, it was stated
15 earlier that -- and she had testified that at least
16 she thought there was sometimes a week or so in
17 between a patient's first consultation and when they
18 would actually have the procedure at Vida Spa and
19 that was just one patient of many, Patient TTT.
20 She also testified they use a pulse
21 oximeter to measure oxygen levels in the blood of
22 these patients and that there are some that can be
23 hooked into monitors, but that this was just one
24 that goes on the end of your finger and really can
25 be purchased at Amazon. Despite Respondent's

1 attempts to push the blame on so-called medical
2 directors for her medical records, of which there's
3 no such thing as a medical director under the
4 Medical Practice Act, responsibility comes down to
5 Dr. Phillips to ensure that her records are timely,
6 legible, accurate, complete, she knows that, and
7 since the Board upon request or order.
8 I submit that the IC has met the burden of
9 proof showing Dr. Phillips violated all counts
10 involving records and also the intentional act to
11 deceive the Board and conceal records of propofol in
12 an attempt to conceal the illegal and unaccredited
13 use of propofol in an unaccredited facility, and
14 that would account for Counts 73 to 133, Counts 134
15 through 194, Counts 195 through 255, and Count 257.
16 Throughout this proceeding Dr. Phillips has
17 consistently shirked responsibilities as a
18 professional medical doctor in knowing whether she
19 was providing anesthesia in an accredited medical
20 facility. She effectively says it's not her
21 responsibility to know if she's working in an
22 accredited facility while administering propofol to
23 numerous patients.
24 So, what we're left with here is her
25 insistence that we should not place the

1 responsibility on a medical doctor licensed who has
2 been licensed since 1995, 27 years, but we should
3 just rely on telling Gisselle Platfoot's word for
4 it, that, sure, she has all the appropriate licenses
5 to do everything that they were doing there. But
6 it's Dr. Phillips's license, her medical license,
7 not Gisselle Platfoot's license.
8 The IC has proven that propofol was done.
9 It's almost undisputed. No, it wasn't disputed.
10 Dr. Phillips directly supervised RNs who she thinks
11 were certified or licensed to administer propofol at
12 a facility that didn't have accreditation to perform
13 general anesthesia or conscious sedation or any of
14 those as listed in Chapter NRS 449. This proves
15 Counts 1 through 72, which is a violation of
16 630.373.
17 I'm also going to move to dismiss without
18 prejudice -- in case the IC needs to file something
19 again -- the violation of an order, which is Count
20 258.
21 On behalf of the Investigative Committee we
22 ask the Board to consider the record that was
23 presented here and render the appropriate findings
24 and discipline. Thank you.
25 THE HEARING OFFICER: Thank you very much,

1 Mr. White.
2 Before I hear from Mr. Flangas, I neglected
3 to clarify which of your exhibits are in evidence,
4 so I want to do that now.
5 MR. WHITE: Well, I know the one I referred
6 to, the certification for -- I think it was a fire
7 chief or something like that. That's in.
8 THE HEARING OFFICER: So, I have E.
9 MR. FLANGAS: Yes, that we agreed to that.
10 THE HEARING OFFICER: I've got K.
11 MR. FLANGAS: K, I'll tell you, is -- yeah,
12 the handbook. It's actually just a portion of K.
13 It's the handbook portion.
14 THE HEARING OFFICER: Right. I have L in.
15 MR. WHITE: I think that's the fire
16 inspection.
17 MR. FLANGAS: No. L is Dr. Borromeo.
18 THE HEARING OFFICER: I have P in.
19 MR. FLANGAS: Yeah. That's the Dr. Belsky.
20 THE HEARING OFFICER: R is in.
21 MR. FLANGAS: That's correct. That's the
22 affidavit of Dr. Borromeo. That's all I have in. I
23 think that's all we offered.
24 THE HEARING OFFICER: Right. Because I
25 don't think you --

1 MR. FLANGAS: I didn't offer anything else.
2 THE HEARING OFFICER: Everything else was
3 pretty much stipulated in.
4 With that, Mr. Flangas, you're good to go
5 here.
6 CLOSING ARGUMENT
7 MR. FLANGAS: Thank you. I would like to
8 first state it was a pleasure spending three days
9 with you gents and ladies, and you today, and it was
10 conducted very professionally with contention, but
11 that's what we're supposed to do, right? And it was
12 a pleasure to meet all of you.
13 Okay. I think to sum it up, this is a case
14 about a facility that didn't get the proper
15 licensing and it's a con job too. It's a case about
16 a woman named Gisselle Platfoot who ran a med spa
17 unlicensed for five years and during that five-year
18 period had dozens of doctors going in and out,
19 plastic surgeons, anesthesiologists. I think Dr.
20 Borromeo was an internist. She had dozens and
21 dozens of RNs, physician assistants, nurse
22 practitioners.
23 It's important to look at for a five-year
24 period you had all these people working there and
25 not recognizing that she was running a con as far as

1 her facility being licensed with the State of Nevada
2 and all these people being duped. You do have -- I
3 think in reality and what we've discovered over the
4 three-day period is that doctors and nurses, when
5 they get hired or they contract out and enter into
6 contracts, they don't think about -- not only do
7 they not think about checking to see if the place is
8 actually licensed with the State of Nevada. It
9 would be the health department. You know, we
10 learned here that, licensing isn't even with the Med
11 Board. It's with the Health Department.
12 But all said they wouldn't know how to do
13 it to begin with, and that's what we're dealing with
14 here. Mr. White did say one thing. He said, well,
15 Maryanne Phillips, she says it's not her
16 responsibility to know, and the operative word there
17 is "to know." And that's -- I disagree with what
18 he's saying but I agree with the operative word,
19 which is "knowledge."
20 And it comes down to whether it passed the
21 smell test with all these people. She was referred
22 by Dr. Miller. Miller said, I had no clue, they're
23 talking about opening up other stuff. You have
24 Sheep and all these other doctors saying -- look,
25 you had doctors and you had people going in and out,

1 it looked like a great place, it was there for a
2 long time, they talked a good game. No clue.
3 You had even Dr. Sheep and you have the
4 exhibit. It's a fire marshal certificate and it
5 says "Local sedation," which us lawyers would say,
6 Well, that should ring a bell, right? But it
7 doesn't. Because you put it in a frame. That's why
8 I have to for the record I have to hang up my
9 diplomas when I get back to my office because I
10 don't have them on the wall. It makes me look legit
11 even if it's from the fire marshal.
12 So, I guess to begin with, the operative
13 word here is "to know." These statutes are not
14 strict liability. They're based on knowledge and
15 what we're trying to do is say, Look, should Dr.
16 Phillips be punished because she knew she was doing
17 something that was wrong? We can't necessarily
18 punish her for doing something that she didn't know
19 was wrong or should have known. We could even hold
20 her to a should-have-known standard. I'm good with
21 that, you know, but there's some -- there's a
22 knowledge requirement there.
23 Okay. The next thing I want to go back as
24 I started in the opening statement and talk about
25 all the different counts as to the factual

1 allegations that are being alleged per count,
2 because during the three days of testimony we've
3 gone into a lot of different subjects but -- and
4 they all are interrelated and help support and
5 create a foundation for the causes of action that
6 are being alleged, but they are not actually the
7 operating facts that you as a tribunal need to look
8 at in order to determine whether it happened.
9 For example, whether Dr. Phillips handled
10 liposuction when she did it. She testified for six
11 months she trained under Dr. Serrano. He certified
12 her. But even after that, I mean, I gathered she
13 didn't feel super confident all the time and there
14 were other doctors with more experience who came in.
15 Okay, that's great. She's allowed to do it. That's
16 great. But that's not part of the operative facts
17 that support any of the causes of action.
18 The operative facts -- and Mr. White and I
19 went through this a long time ago -- are based on
20 two general fact pools. One is the actual
21 administering propofol at a location that's not
22 licensed, which we handled, and then the other
23 operative fact -- well, there's three -- the
24 malpractice fact. That's two. And then the third
25 one is the falsification. In other words, let me go

1 to the -- like Counts 134 to 194.
2 Okay. Let me just start. Counts 1 to 72
3 are based on the operable facts that she
4 administered propofol in a location that was not a
5 licensed medical facility.
6 Counts 73 to 133 are based on two operative
7 facts. One is the failure to maintain timely,
8 legible, accurate, and complete medical records
9 related to the diagnosis and treatment that's based
10 on the factual allegation that propofol records were
11 not kept with the medical records of the patient and
12 were kept separate.
13 And then two is the illegal conduct and
14 falsifying medical records is based on the factual
15 allegation that the propofol records were not kept
16 with the medical records of the patient, were kept
17 separately.
18 So, the gist of that and what they're
19 saying is, because there's a sedation log that's a
20 separate piece of paper and it's kind of -- I call
21 it a master list, it has other patients on it -- and
22 it's a separate sheet of paper and there's not a
23 sheet of paper in the patient's file -- some of the
24 patient files, not all because some of them had
25 propofol, like Patient TTT, that that is not only

1 wrong but it amounts to falsifying medical records,
2 and that's what is being alleged in Counts 73 to
3 133. I'll show you paragraph 27 that shows
4 Respondent -- that's Maryanne -- in an effort to
5 conceal her illegal conduct violated NRS 630.3062
6 when she falsified the medical records of at least
7 61 patients for the purpose of concealing the use of
8 propofol for general anesthesia, conscious sedation
9 or deep sedation.
10 So, that's what is being alleged and
11 there's no evidence that she -- first of all,
12 there's no evidence that she even controlled the
13 forms that was being written the propofol on. You
14 have undisputed testimony -- and even Mr. White
15 mentioned on the record -- that the forms changed
16 Mr. White said they changed once. Maryanne Phillips
17 said they changed twice. And there were forms at
18 one time where the propofol was being logged in the
19 actual patient's record and then it got changed
20 where the propofol was being logged in a separate
21 sedation log.
22 And I understand that Dr. Jonas said that
23 he's never seen a sedation log, but you have
24 Supervisor Jeremy Lovell who said in his testimony
25 when Mr. White asked him, Do you ever see sedation

1 logs, and he said, Yes, in licensed medical
2 facilities, OPFs. From his testimony it's clear
3 that that's the way you're supposed to do it. And
4 you also -- you couple all that with Maryanne's
5 testimony and she said that she believed Gisselle
6 thought that that's the way she was supposed to do
7 it, so there was clearly a switch.
8 In addition, you have undisputed evidence
9 that we have from Investigator LaRue that the
10 custodian of records was Vida Spa and nobody else.
11 And she gave us a lot of insight. There were two
12 days of testimony and the first day she actually
13 said usually it wasn't the doctors, but it can be
14 the doctors. It could be the medical directors and
15 it's -- or it's the facility and it's based on
16 contract. That's how she labeled it.
17 And she -- never once did she say that no,
18 Maryanne is the custodian of records. She didn't
19 even say that the medical directors were. He said
20 Vida Spa was. Why is that important? I labeled the
21 different types of -- you have making sure the
22 record is accurate, okay, and so the testimony that
23 we presented to you, Mr. Hearing Master, is that
24 Maryanne said when she was -- the procedure was
25 going on, the patient records and the sedation log

1 was there together, just different pieces of paper.
2 And when they left, they left. She didn't know and
3 there's no evidence that she ever knew necessarily
4 where they were even kept or whether they made a
5 copy of the sedation log and put it in the patient's
6 file or what they did with it.
7 And I think that's very important, because
8 you have the first frame, which is, Maryanne, is
9 everything accurate, and then you have the second
10 frame, which is who is the custodian of records and
11 do they keep everything together? And she -- I
12 don't believe that the evidence shows that she could
13 be held responsible for anything after her just
14 making sure that the propofol was logged and
15 everything was logged.
16 One of the interesting things when you look
17 at these counts -- by the way, you have other
18 counts. You have the 134 to 194, which is the same
19 falsifying accusation when you read that second
20 amended complaint and then 195 to 255, which is
21 falsifying records. It's more than just -- what
22 they're alleging is she purposely, because to
23 falsify you have to intentionally do it -- it's not
24 even negligently do it -- intentionally try to do it
25 for some unknown reason.

1 And I think it's clear in the evidence that
2 we know that she is allowed to give propofol, she's
3 allowed to administer it. She did it at Dr.
4 Ezeanolue and she was doing it here. There's no
5 reason in her mind to ever think that, Hey, I gotta
6 hide the propofol usage, because she didn't even
7 know that it wasn't a medical facility. She didn't
8 know what -- she doesn't even know what that means,
9 she does now but at the time.
10 So, you gotta think also because it's easy
11 for us to look at all this stuff in retrospect and
12 go back and say she -- You're pretty dumb and, by
13 the way, Dr. Borromeo, you're really dumb and,
14 Maryanne, you're just in the same group as them.
15 It's easy to do that but these are all pretty
16 intelligent people going down and working. And so
17 that's a very -- that's a higher level that the
18 state did not prove.
19 195 to 255 is also the falsifying
20 allegation. Count 257 is the falsifying allegation.
21 258 they withdrew without prejudice, and then we
22 have the malpractice allegations.
23 So, I think if we put ourselves back to see
24 what everybody else did, you could satisfy there was
25 no reason to falsify. They just found when they

1 went and did the inspection they -- and I
2 understand. I don't blame LaRue at all. Her first
3 day it was they subpoenaed and they got the medical
4 records sedation logs, and then I think we
5 discovered later on on the second day after reading
6 letters that actually they went there and got all
7 the medical records from Vida Spa and the sedation
8 log was on top of the file cabinets there, something
9 like that, and so the point is they went to Vida Spa
10 to get all that.
11 You know, and what's interesting, I also
12 brought out that it needed to be a licensed medical
13 facility, not only because whether propofol was
14 being used or not, but also any narcotics for
15 sedative purposes, not for pain purposes, you need
16 to be a medical facility. And so the whole point is
17 Dr. Borromeo -- you know, I know his testimony is he
18 didn't know his Nurse Tammy was doing lipo, and
19 that's his testimony. But, you know, he knew he was
20 prescribing medicine and I believe in the order what
21 he agreed to, he copped to that and it needs to be a
22 medical facility just for narcotics, let alone
23 propofol.
24 And so another point I want to make is the
25 different -- all these doctors didn't know but you

1 know what, a medical director should be on a little
2 higher level than all these independent contractors
3 like Sheep and Dr. Phillips, and you have Dr.
4 Borromeo and you have Charmaine, you have -- there
5 were other two in the record that Maryanne knew.
6 And you had all the medical directors for four years
7 prior. They're the ones who are in charge of the
8 actual medical facility of the place, the services.
9 That's the whole purpose of having a medical
10 director.
11 And so, I mean, technically they would be
12 at a little bit higher level, Well, you should have
13 learned more, and they didn't still didn't know how
14 to do it. I think it's really insightful that none
15 of the doctors knew how to check and at the
16 beginning in opening statement I talked about how,
17 if a secretary or paralegal got hired by a lawyer --
18 because we're talking about work, not about a
19 client, you know -- would they say, Well, I better
20 check that this lawyer is fully licensed as the
21 paralegal before I start working for them and aiding
22 them in the unauthorized practice of law? Same type
23 of scenario in that sense.
24 But it's easier to find out if a lawyer is
25 licensed because it's more common knowledge. You

1 check with the state bar as opposed to what division
2 in Nevada and what license do they actually need to
3 be able to do conscious sedation. That's pretty --
4 that's getting pretty into the woods.
5 I found one NAC on medical director. I'll
6 read it. It's not -- it's NAC 449.1543. Now, this
7 is not right on point because this has to do with
8 facilities for treatment with narcotics and
9 medication units, but I think it kinda just
10 generally -- I mean, we all have a common-sense
11 knowledge of what a medical director is supposed to
12 do and I understand it's by contract, but I think it
13 gives some guidance. It's not on point or doesn't
14 apply to this, but it's part of the NAC.
15 It says, "A 'medical director' means a
16 physician who is licensed to practice medicine in
17 the state and who is responsible for the
18 administration of all medical services at the
19 facility for treatment with narcotics or a
20 medication unit and for ensuring that the facility
21 or the medication unit complies with all applicable
22 federal, state, and local laws and regulations."
23 So, again, this definition is not
24 specifically for a drug. It specifically talks
25 about drug, alcohol, rehab stuff but I think the

1 gist appears that's guidance.
2 Also, there's another statute as NRS
3 629.016. It's a definition of healthcare provider.
4 It says, "For purposes of this section a provider of
5 healthcare shall not be deemed to have primary
6 custody of the healthcare records or to be the
7 operator of a facility that maintains healthcare
8 records of patients, A, solely by reason of the
9 status of the provider as a member of a group or, B,
10 if another person is employed or retained to
11 maintain custody of the healthcare records of the
12 provider."
13 So, in other words, by the way,
14 Dr. Phillips is a provider of healthcare based on
15 69.016(b), okay, as defined also in 69.031. So, in
16 other words, just because if there's another
17 custodian of records -- I don't even know if I need
18 this -- but if Vida Spa is a custodian of record,
19 then a healthcare provider and other doctors are not
20 responsible to maintain the custody. In other
21 words, you gotta have -- only one person has to have
22 custody, right? I guess that's what that means.
23 Let me go through some of the testimony and
24 I'll wrap it up.
25 Flumaznil, you had Dr. Belsky testify, yes,

1 Mr. White is right, she's only worked for four or
2 five years as an active anesthesiologist in a
3 surgical center or anything else. But she's really
4 pretty well rounded and understands all these
5 different issues. Because you have Dr. Jonas who
6 clearly is a high-end surgical center hospital
7 anesthesiologist who works for a big group and you
8 have Marjorie who has done all that, but she's owned
9 her own spa.
10 What's also striking about her is she's
11 reviewed thousands and thousands of medical reports
12 for what? For licensing purposes for surgical
13 centers. This is what she's done thousands and
14 thousands, so I think that's important. She says
15 Look, Flumaznil is a physician's preference. I've
16 used it some but it's not what I prefer. She
17 preferred some antinausea medication that she
18 preferred.
19 You have testimony of her and Phillips -- I
20 can't remember -- but it's like Narcan, basically it
21 makes them more alert immediately and neutralizes
22 the effect. And Dr. Phillips believes that it's
23 extremely rare on seizures. Belsky says it's okay
24 to use and it's not a smoking gun. It's not. We'll
25 get to the medical record in a second. That was

1 really one of the biggest points they had. It's not
2 a smoking gun. And she worked -- you have testimony
3 that doctors use it, some doctors use it often.
4 It's common. Even Dr. McCormack said it's common
5 for everybody to have it. She didn't go as far to
6 say it's common for some doctors to use it, but she
7 doesn't know. We know Dr. Ezeanolue used it every
8 day. We know what Maryanne's preference is now,
9 which is after the procedure, if right afterwards
10 they're not fully alert and everything else, she
11 uses it, because they're going to go home and
12 there's absolutely no reason not to make sure
13 they're alert as possible. That's her procedure and
14 that's how she's done for six months with Dr.
15 Ezeanolue. We know other doctors do it. Dr. Belsky
16 says it's okay and it's a very rare seizure issue,
17 and that's it.
18 You have to weigh the pros and cons. It's
19 better in Maryanne's mind to have them more alert
20 than not, and she only uses it when at the very
21 beginning after the procedure they're still a little
22 bit not oriented and alert as much. I want to go to
23 Exhibit 102 and I want to point out some things that
24 are very telling.
25 So, I guess the first point I'll make

1 before I get into this is the record itself minus
2 what Dr. Phillips wrote down after she talked to the
3 hospital, which is the very top part and very bottom
4 part, shows nothing but a good procedure that
5 occurred.
6 There is not one indication of any distress
7 or situation that would show our position, show that
8 anything negative was going on. The doctors called
9 by the state, the only -- they will dispute that and
10 they'll say there's one thing in here and that's the
11 Flumaznil. I've already handled addressing that.
12 So, I want to show you a couple things.
13 Dr. Phillips testified that she -- Dr. Jonas talked
14 about a mental status evaluation. He said it could
15 be formal or informal. Informal is talking, making
16 sure they're oriented and alert. What -- the first
17 thing he never -- so he says, Well, you could do it
18 informal, but you know what, he didn't have the
19 medical records in front of him. And he never
20 mentioned that on page 2551 of the medical records
21 it says, "Patient after procedure was talking and
22 alert and oriented. Then when she started walking
23 out to car with the nurse, she felt faint and drowsy
24 and 9-1-1 was called."
25 The point is she's alert, one, oriented,

1 two, and, three, walking. Dr. Maryanne said she was
2 walking unassisted to the wheelchair. And, four,
3 conversing. That's called an informal mental status
4 evaluation. That's what you do at medical
5 facilities, and I want to go through the time.
6 On page 2552 in the middle of the chart
7 there you have "liposuction time." And it started
8 at 11:58 a.m. and it ended at 1313, so that's 1:13
9 p.m.
10 Dr. Marjorie Belsky testified, I don't see
11 a problem here. I don't understand what the issue
12 is. They were monitoring her 30 minutes past the
13 end of the procedure. You can see that time. If
14 you look on the left side of the chart, you see the
15 last monitoring of vitals at 1350, so they monitored
16 her for 38 -- 37 minutes. And Maryanne was in the
17 room with her, okay? But that's when they took the
18 monitors off. Right? And we know from Maryanne
19 then they had to put the suits on and do all that
20 stuff, right, after they do the monitoring.
21 Look at the end time when she actually left
22 the procedure room. End time was 1431, so that's
23 2:31. That's over two hours -- that's two hours and
24 -- I don't know -- 17, 18 minutes after the lipo was
25 when she was actually walked to the wheelchair and

1 walking out.
2 That's two hours where Maryanne's there
3 with the patient. She didn't converse and talk and
4 monitor her that long. She was there the whole time
5 but for 30 minutes -- 20, 30 minutes but that's a
6 long time. And no distress. There's no evidence of
7 any distress until they're out in the parking lot
8 and she gets up, and I'm sure the blood went out of
9 her head and she got faint. What's the first thing
10 they do is call the ER.
11 So, on the malpractice counts we have two
12 malpractice charges. We have the lipo malpractice
13 and we have the anesthesia malpractice. On the lipo
14 malpractice, Maryanne Phillips didn't do the lipo.
15 I don't believe -- when they were doing the charging
16 documents, I don't know. Maybe she didn't do the
17 lipo. That's what the evidence showed. You have
18 Dr. Sheep -- not Dr. Sheep. You have Dr. Jones,
19 their own expert, who said --
20 MR. WHITE: Janes.
21 MR. FLANGAS: I'm sorry. Dr. Janes said,
22 Listen, if I'm doing anesthesiology, I'm not there
23 -- I'm not gonna be responsible for the PA. That's
24 not my prerogative. And at that time that was
25 Maryanne's third patient or fourth patient. She

1 just started there a week before. She didn't know
2 how to do any lipo then. She wasn't doing anything
3 or not monitoring. That was Dr. Borromeo's issue.
4 And whether he wants to cop to knowing his PA was
5 doing lipo or not, you can't do both.
6 Dr. Janes was clear it was no, that's not
7 gonna happen. I'm not responsible just because I'm
8 the physician in the room. You know what, I'm sorry
9 that our laws here in Nevada allow a PA to be doing
10 that under a medical -- I know that a lot of these
11 facilities do that, you know. I don't know if this
12 PA's competent or not. I assume she is competent
13 except for what happened with TTT and we know the
14 actual injury, or whatever, to TTT was lipo.
15 But the point is she's not -- she didn't do
16 the lipo and wasn't responsible for the lipo. She
17 just walked in three patients earlier and she's
18 concentrating on the anesthesiology and that's it.
19 You can't just say, Well, she's responsible for the
20 lipo because she's the only doctor in the room.
21 So, the next thing is when you look at this
22 chart you about gotta look at the time they're doing
23 it. I've already talked about it's easy in
24 retrospect, oh, after she goes to the hospital, then
25 you could have said, well, what could have been done

1 different or what was wrong? But everything looked
2 fine and everything was fine. We handled the other
3 thing that was -- I guess Dr. McCormack was using
4 three factors in her decision but this is regarding
5 lipo but she was kind of -- and she's a plastic
6 surgeon, but she was kind of crossing over maybe to
7 talk about anesthesiology, so I need to address it.
8 The Flumaznil, which I've handled, she said
9 the patient bled, significant bleeding -- that was
10 on the bottom -- but that's after they talked to the
11 doctor -- to the hospital, and so you can't factor
12 that in. It really comes down to the Flumaznil.
13 You know, I'd like to point out that at 4:30, so
14 she's cleared at 2:30 hours after that she's stable
15 again in the hospital. That's what we have to work
16 on.
17 When you're looking at malpractice and
18 whether to substantiate that or not, you need to
19 look at what on this sheet -- because it's really
20 the operative sheet -- minus what they found out two
21 hours later would have led them to say, well, you
22 didn't act reasonable and you were below standards.
23 And the answer is there's absolutely nothing there
24 except if you want to just tell all the physicians
25 you can't use Flumaznil as a preference, and there's

1 no law that says they can't use it.
2 Okay. Dr. Marjorie Belsky talked about
3 actual -- she did a great calculation and actual
4 fluids lost. It wasn't that much, 300 it 400 cc's.
5 Apparently, that's not that much at all. The 500
6 cc's is when you go to a blood bank. I think her
7 point was after you give blood you don't say, I need
8 500 cc's of fluid so I'm okay. That was her point
9 there.
10 And what was really interesting that I
11 never knew about is that the real danger is having
12 too much fluid in your body, because that could lead
13 to very serious pulmonary embolism and that is a
14 concern, so you want them to have a little bit of
15 loss.
16 I already talked about after procedure
17 talking, alert, oriented, walking. I talked about
18 40 minutes still monitored after the lipo and then
19 another hour-plus in the same room. Maryanne didn't
20 leave at any time. She had no clue that there was
21 going to be any problems.
22 You know, and if you review the record,
23 Mr. Hearing Master, what was interesting and what I
24 had in my notes with Dr. McCormack is when she's
25 trying to say the magical words that there was

1 malpractice, she kept on throwing in "not stable,"
2 with Flumaznil and she kept on throwing in the "not
3 stable" part, and you'll see it in the record.
4 Those two combos would lead someone to say, Hey, you
5 can't release someone if they're not stable and on
6 they're on Flumaznil. I get that.
7 The problem is she was stable, and not only
8 Janes never mentioned the talking and oriented and
9 alert, but Dr. McCormack never mentioned that in the
10 record. Dr. McCormack, why do you think there was a
11 problem if she's oriented, alert, talking, and signs
12 are stable? She didn't even address that. Patient
13 was always stable.
14 So, I already talked about how
15 Dr. McCormack, her opinion was based on retrospect,
16 on hindsight. Marjorie, Dr. Belsky, said, Look,
17 this chart's good. There's nothing wrong with this
18 chart minus, you know, two hours later seeing --
19 even the ER stuff. And even with that, you know, as
20 time goes in retrospect, obviously, there was
21 something but there was no -- I guess the key point
22 is and what you'll have to decide is Maryanne, there
23 was some indication that occurred where you
24 shouldn't have released her. And so the challenge
25 is where in this chart is that as you go minute by

1 minute and there's nothing in there.
2 We talked -- you have testimony about five
3 minutes and 15 minutes monitoring, you have Dr.
4 Janes who said, Look, it's five minutes or sometimes
5 three minutes but anything over five minutes is
6 below standards. I will submit that Dr. Janes is in
7 a surgical center in a hospital and the type of
8 stuff you do there is -- even with propofol, the
9 type of stuff you do there is with general
10 anesthesia. Those are not -- we know from Dr.
11 Belsky that is not the standard in the community,
12 one. That is not required by any laws, two. Even
13 in the exhibits that we've agreed to admit 102 and
14 103, it doesn't state that. We'll go through that
15 in a minute. Four, I think Dr. Belsky shed some
16 light on it, which was, Listen, it depends on the
17 procedure, it depends on what they're doing, if
18 they're -- if they're not under general anesthesia,
19 and they're talking, then 15 minutes is fine. As a
20 matter of fact, there's forms that say "15 minutes."
21 Dr. Maryanne said her rule of thumb is, if
22 it's a situation like Patient TTT and they're there
23 and you're sitting there and you got the nurse with
24 the propofol and doing the drip and she's looking
25 around saying, How do you feel, how are you doing,

1 they're monitoring and talking back and forth, then
2 15 minutes is fine and there's no problem. Because
3 why? That's why she's there. She's there to
4 oversee and make sure everything's working. And you
5 have in the community -- you have undisputed
6 testimony that in the community, whether Dr. Janes
7 likes it or not, in Vegas, anyway -- maybe they do
8 it different in Reno -- you have -- they have every
9 15 minutes and it is okay. The very fact there's
10 sheets that have 15-minute intervals in it tells us
11 it's okay. The American Society of Anesthesiology
12 is one of the many associations out there.
13 107, I want to highlight a couple points.
14 I can read it out loud.
15 THE HEARING OFFICER: Just not too fast.
16 MR. FLANGAS: Yes. The second sentence --
17 well, first sentence says, "These standards apply to
18 all anesthesia care, although in an emergency
19 circumstances appropriate life support measures take
20 precedence, of course. These standards may be
21 exceeded at any time based on the judgment of the
22 responsible anesthesiologist."
23 That's what it comes down to. And by the
24 way, I will also tell you -- not only -- this is
25 just one membership. It doesn't say anything,

1 really, that I see that impacts this case but I will
2 tell you that the type of sedation that they're
3 talking about -- oh, it's right here. It's in the
4 middle of that first paragraph. It says, "They
5 apply to all general an anesthetics, regional
6 anesthetics and monitored anesthesia care."
7 The type of sedation we're talking about
8 doesn't factor in there. It's not general
9 anesthesia. Regional anesthetics, it wasn't that.
10 And monitored anesthesia care is -- okay. Under MAC
11 this is -- under MAC -- and I could give this -- I'm
12 just looking at the website. Monitored anesthesia
13 care, MAC, means an anesthesia specialist will care
14 for you.
15 MR. WHITE: It's not in evidence.
16 MR. FLANGAS: Look, I'll just submit that
17 the type of stuff they were doing is moderate
18 sedation, which doesn't really apply to this form
19 here and this is mainly general anesthesia. If you
20 look at page two, it talks about methods, inspired
21 gas, general anesthesia. Down below on page two it
22 says, "during moderate or deep sedation," so now
23 moderate sedation you have there.
24 But it lumps all three of them in and it's
25 not necessarily the standard of Nevada and I think

1 you need to rely on the doctors. I think the very
2 fact she was in the room with the patient for two
3 hours is pretty significant.
4 So, sufficient -- I already talked about
5 the mental state evaluation. Conversation is
6 enough, according to Dr. Janes, who talked about the
7 time period. We talked about all the doctors that
8 went in and out. Talked about the operative word is
9 "knowledge" or "should have known" regarding that.
10 Vida Spa, again, very high end and very
11 professional, like a Beverly Hills place, five
12 years, doctors coming and going. And you top that
13 off with a fast-talking owner named Gisselle
14 Platfoot who snows everybody and you have -- you're
15 in business without a license. I'll tell you that
16 Dr. Sheep -- and I'm not bringing this up -- okay.
17 Maybe I am.
18 I guess Dr. Borromeo's settlement agreement
19 was put in and he did it. I'll tell you he was
20 definitely on a little higher level. You got the
21 charges, you know, narcotics, not even being there,
22 being a medical director, all that stuff.
23 Dr. Sheep, there was, apparently, no complaint or
24 investigation. I'll compare the only difference
25 between Sheep and Maryanne as far as working at an

1 unlicensed facility is she did it for five or six
2 weeks before they got closed down. They'd probably
3 still be there for another year, and Maryanne worked
4 for a year. So, I think that's something that this
5 tribunal could look at. Phillips, we know that
6 there's exhibits here with Phillips being medical
7 director of BHS. We explained all that.
8 Just real quick on Johnna LaRue, we already
9 talked about it's undisputed who the custodian of
10 records was. And it's clear that -- here's another
11 thing, is through the testimony, you know, these
12 facilities, they're their own entity and business.
13 She's just a third-party IC coming in to do per diem
14 surgeries or Botox or whatever and she gets paid her
15 patient.
16 These facilities, they create their own
17 forms, they set up their own rules. She tells you
18 well, they had the software. It was like dental
19 medical software. It looked good to me. She
20 doesn't control the forms. They changed it two
21 times on her. And there's no evidence to say she
22 purposely -- when they came in to the medical
23 procedure room they were all together and all filled
24 out. They go out and there's no evidence that there
25 was any intent to try to keep it separate or -- not

1 separate, to try to falsify that Maryanne was trying
2 to falsify. There's no rationale or motive behind
3 why she would want to do that. This is a woman who
4 wouldn't step into the pain clinic of Dr. Ezeanolue
5 into that office, which was in the same complex as
6 the surgical center, because she was too scared to
7 be connected in any way. Yet she worked for them
8 for six months.
9 You know, also Dr. Miller testified he
10 introduced her. He said, It looked good to me. I
11 gave my approval. You know, he analyzed her on a
12 social level, that she's a little bit on a spectrum.
13 She takes things for face value, was his words,
14 doesn't pick up cues. That's evident by her working
15 for a doctor for six months who is supposed to pay
16 every week and just working six months saying, Well,
17 he said he'll pay me. Normal -- well, I don't know
18 normal. Most people wouldn't take that. She takes
19 things for face value and that's a lot of reasons
20 that creates her issues, but that's how she is.
21 She's a little bit on the spectrum, for sure.
22 She said she also made sure the propofol
23 was locked in the record on the sedation log. She
24 was allowed to do it. We know -- I know at the
25 beginning on the first day Investigator LaRue was

1 showing the pictures, Exhibit 51, I believe, to
2 show, Aha, she's writing prescriptions. They didn't
3 understand or maybe she knows now she has a right to
4 write prescriptions. She's actually able to
5 administer narcotics. That's never happened in this
6 case for anesthesiology.
7 One last thing on LaRue, she said whoever
8 controls the records is the one responsible. I
9 remember those words. I will characterize the
10 factual allegations of falsifying records, that's a
11 big fiction. It's just a made-up fiction. You
12 know, it's good lawyering, you know, but you got the
13 facts, but it's just creating something to try to
14 get a cause of action out and the whole factual
15 allegation is a fiction.
16 Dr. Janes talked about -- his main thing
17 was the timing of the vitals. We've already handled
18 that. He talked about the supplemental oxygen, that
19 was being given. It's on the sheet of the oxygen
20 levels. It's not completely separate like, Hey,
21 supplemental oxygen given. These are nursing
22 records. She doesn't know. She said it's not
23 required but she doesn't know if it's common or not.
24 We had the electrocardiogram issue, right?
25 I don't think that Dr. Janes said that by itself was

1 below standard and malpractice. But it was grouped
2 in, according to Mr. White when he was saying it was
3 grouped in, Dr. Belsky said, Look, that's gone away
4 with. You don't do that with patients that are
5 non-symptomatic. And then all patients had
6 supplemental oxygen. Finally was the mental status
7 evaluation and he never knew about the page before,
8 about the orientation being alert and everything
9 else.
10 I already talked about he said he's not
11 responsible for a PA doing lipo. You have NRS
12 630.040, that's what Mr. White cited to as
13 reasonable care, skill, and knowledge, and Maryanne
14 passes that with flying colors. There's not even an
15 issue there. As Dr. Belsky says, I don't know what
16 we're talking about here. And you've already had
17 evidence about how invasive is lipo at a surgical
18 center compared to just a medical facility. The
19 medical facility lipos are supposed to be much more
20 less invasive. So, what do they do? They walk out
21 that day. And that happens thousands of times a
22 year in Nevada. They do the lipo and walk out.
23 And it's very rare when we have something
24 like this where they're in the parking lot. I guess
25 maybe if they were still with the patient, she would

1 just monitor more, but if they were in the parking
2 lot, the thing to do is call Emergency.
3 One of the main reasons I called Supervisor
4 Jeremy Lovell was I wanted the tribunal to
5 understand what they actually needed in the medical
6 facility to be official. So, there's a licensing
7 application, there's insurance, there's bonding.
8 What does he do to come in and say, Okay, we're good
9 to go? And he said, Clean place, crash cart,
10 qualified staff, procedures in place. And this
11 facility had all that.
12 They just didn't have the piece of paper,
13 which is very important. Why is that piece of paper
14 of licensing important? Because it allows us
15 residents of Nevada to make sure that they're being
16 monitored and being inspected and everything is
17 okay. And what's their procedure? Well, we just --
18 once they apply we get off of them, which I thought
19 was telling too.
20 You know, real quick, you have evidence
21 Maryanne did not do all the surgeries there during
22 the one-year period. There's times when RNs would
23 just do the anesthesia and other people would do the
24 lipos. And you also have testimony that they didn't
25 use propofol all the time. I believe it was about

1 half the time. 50 percent of the time they used
2 propofol.
3 The dizziness was based on the opioids
4 taken. That's something that happens and it's not a
5 reason to cancel surgery. Maryanne testified she
6 was an ICU nurse for many years trained to handle
7 this type of stuff. Talked about EKG is actually
8 not recommended right now unless they have some
9 predisposition.
10 I think to sum up, again, the scope of the
11 malpractice that occurred is when looking at this
12 chart and any testimony of percipient witnesses,
13 which is just basically Maryanne, that day is there
14 anything that would have triggered more caution than
15 keeping the patient for two hours -- for a little
16 bit under two hours? The statute is knowledge for a
17 licensed facility. It's not strict liability. For
18 all the other counts it is actual intentional
19 falsifying, like intentional acts.
20 With that, I will close my -- let me make
21 sure if I have everything.
22 With that, I will close my -- end my
23 closing. Thank you.
24 THE HEARING OFFICER: All right. Thank you
25 very much, Mr. Flangas.

1 Mr. White, that gives you the opportunity
2 to offer a reply argument.
3 REBUTTAL ARGUMENT
4 MR. WHITE: Thank you, Mr. Woodman. I'll
5 go quickly -- not too quickly.
6 Mr. Flangas mentioned no control of forms,
7 however this does not absolve Dr. Phillips'
8 responsibility to make sure propofol is in each
9 individual patient's records, where many other meds
10 were listed. That's, apparently, in lots of the
11 records that have been admitted here.
12 She was supervising those nurses, signed
13 off on the medical records as the anesthesiologist
14 and propofol is not listed in many of those where it
15 appears in the sedation log and there's matching
16 patient names. She is not absolved of making sure
17 those are correct. Maybe she loses control later
18 and she's not custodian of records, but at that
19 point she has control of all the records.
20 Mr. Flangas alluded to the definition of
21 medical director in NAC 44.1543. It doesn't apply
22 to med spas.
23 THE HEARING OFFICER: I'm sorry. It
24 doesn't apply to?
25 MR. WHITE: Med spas.

1 THE HEARING OFFICER: Thank you.
2 MR. WHITE: Also, talked about intent and
3 proving intent. One of the only statutes the IC
4 must prove intent is violation of a court order,
5 which was dismissed without prejudice earlier today,
6 and that talks about the willfully and knowingly
7 standard. That's not in this -- she was not charged
8 with that willfully and knowingly concealing
9 propofol use, so that's not how it was written in
10 the complaint.
11 Dr. McCormack can testify as to the
12 stability of a patient after anesthesia because she
13 sees it every day in her practice. I wrote what I
14 thought I heard Mr. Flangas say that the patient was
15 always stable. I think he was referring to Patient
16 TTT. Patient TTT was always stable until she wasn't
17 and then had a syncopal event in the parking lot.
18 He also asked where in the chart do we see
19 anything that would provide this patient wasn't
20 stable and couldn't be discharged. Well, there is
21 written down there "significant bleeding," I mean, I
22 read the word "significant" and I think, well, I've
23 always known what "significant" means. We can take
24 notice of what "significant" means, so I think that
25 would be something that should concern a doctor and

1 I would say that points to something she shouldn't
2 have been discharged quite yet or maybe discharged
3 to another facility to take care of her, not to her
4 car and to her family.
5 Forms that have 15-minute intervals, Mr.
6 Flangas alluded to that for checking vitals are not
7 in evidence. I have haven't seen them. I just want
8 to make sure that we -- the record was clear
9 yesterday when Dr. Sheep was testifying. I never
10 spoke with Dr. Sheep, so if there's any kind of
11 inference that he was treated differently because
12 of, even though he worked and did the same things
13 that Dr. Phillips did, just want to make it clear I
14 did not speak with him.
15 Mr. Flangas blames Ms. Platfoot and these
16 med spas and for Ms. Platfoot being kind of -- he
17 didn't say this but kind of a con artist. He said
18 "con job," and that the same with the med spas, they
19 look like Hollywood and they look great and doctors
20 going in and out, and I get that. But why go to
21 work there if you think there's a chance that you
22 are in a facility that isn't quite where it's
23 supposed to be in licensing or not up to snuff or
24 that you might be getting conned. Don't go work
25 there.

1 I want to please clarify that Ms. LaRue, he
2 had said that Mr. Flangas kinda couched her
3 testimony as -- said that whomever controls the
4 records controls the records, I guess, but -- has
5 the control of the records. I probably am
6 misquoting him but I want to clarify.
7 Ms. LaRue said that whoever controls the
8 records when she asks for them needs to send them.
9 Not whether they're timely, legible, accurate, and
10 complete. There are really two different steps here
11 that we need to understand. When a doctor or
12 another licensee has to keep medical records as part
13 of their practice, which is what they need to do,
14 they're required to, those -- that is something that
15 the statute calls for. They have to be timely,
16 legible, accurate, and complete.
17 Whether they go to a custodian of records
18 after that makes really no difference. I think
19 Ms. LaRue was trying to explain that they -- that's
20 where she gets the records. She -- first, she will
21 write a letter to the doctor, and then if she finds
22 out that the doctor is not the custodian of records,
23 then she has to move on. And sometimes she'll find
24 out from a doctor who that contact person may be.
25 There are two different things we're talking about

1 here as far as the records go.
2 With that, I'm -- thank you, everyone.
3 THE HEARING OFFICER: All right. Very
4 well. Counsel, thank you. It gets scrappy from
5 time to time, but that's the nature of the beast and
6 it's nice when everybody gets along fine, as was the
7 case here.
8 So, here's where this goes: I start
9 digging through all of the exhibits that I haven't
10 had a chance to dig through yet. Obviously, I'm not
11 going to look at anything that was not admitted.
12 And I will get the transcript and you will
13 see Mr. Flangas, since we haven't had a case
14 together in the past, I refer to the record as much
15 as I can in my synopsis, is what the statute says I
16 put together.
17 And I always ask for an ASCII copy because
18 I like to just be just able to copy and paste right
19 out of the testimony as much as I can to support
20 what I think it all adds up to.
21 I'll put that all together. It'll be in
22 front of the Board in March and my -- I'm beyond
23 done with it at that point.
24 MR. FLANGAS: Is there a certain deadline
25 that you have to get the report in before -- in

1 order to make the March date?

2 THE HEARING OFFICER: Well, I've got -- I

3 don't know if it's in the statute or code but I've

4 got a deadline of getting it in in 60 days, or

5 something like that. There have been times in the

6 past when I didn't have a transcript by the time I

7 was supposed to have my work done.

8 That hasn't been a problem, though, for a

9 good while. There was one court reporter that the

10 Board liked to use who was a great lady but slow in

11 cranking out her work product, and we haven't had

12 that problem in a while.

13 Remember that we've got the January 13th

14 date for whatever briefing. And, again, bullet

15 points are fine on that, whatever you want to give

16 me. That will factor into, obviously, some of the

17 expert testimony.

18 By the way, probably just as I'm asking you

19 to go ahead and give me bullet points, you don't

20 have to write anything fancy to get your points

21 across in that regard. Instead of you all having to

22 wait for my final synopsis decision, which you'll

23 get before it goes to the Board, I will fire off in

24 return kind of a bullet point response so you know

25 whether that evidence is coming in or not.

1 All right, everybody. Thank you.

2 (End of proceedings at 3:52 p.m.)

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1 STATE OF NEVADA)
2) ss.
3 COUNTY OF WASHOE)
4
5 I, TINA M. DALPINO, a Certified Court Reporter
6 in and for the states of Nevada and California, do
7 hereby certify:
8 That I was present for the purpose of acting as
9 Certified Court Reporter in the matter entitled
10 herein;
11 That said transcript which appears hereinbefore
12 was taken in verbatim stenotype notes by me and
13 thereafter transcribed into typewriting as herein
14 appears to the best of my knowledge, skill, and
15 ability and is a true record thereof.
16
17 DATED: At Reno, Nevada, this 29th day of December
18 2022.
19
20 /S/ Tina M. DalPino_____
21 Tina M. DalPino, CCR #641
22 -o0o-
23
24
25

4

EXHIBIT 1

EXHIBIT 1

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against MARYANNE D. PHILLIPS, M.D., Respondent.	**Case No. 18-10032-1**

FILED
JUN 10 2019
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By: _____

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

SETTLEMENT AGREEMENT

The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board), by and through Donald K. White, Esq., Deputy General Counsel for the Board and attorney for the IC, and Maryanne D. Phillips, M.D. (Respondent), a licensed Physician in Nevada, assisted by her attorney, Kenneth E. Hogan, Esq., of the law firm of Hogan Hulet PLLC, hereby enter into this Settlement Agreement (Agreement) based on the following:[1]

A. Background

1. Respondent is a medical doctor currently licensed (License No. 7635) in active status, with conditions, by the Board pursuant to Chapter 630 of the Nevada Revised Statutes (NRS) and Chapter 630 of the Nevada Administrative Code (NAC) (collectively, the Medical Practice Act), to practice medicine in Nevada since December 21, 1995.

2. On February 9, 2018, in Case No. 18-10032-1, the IC filed a formal Complaint (Complaint) charging Respondent with violating the Medical Practice Act. Specifically, the Complaint alleges: Count I, violation of NRS 630.306(1)(b)(1) (Engaging in Conduct Intended to Deceive); Count II, violation of NRS 630.306(1)(p) (Engaging in Unsafe or Unprofessional

[1] All agreements and admissions made by Respondent are solely for final disposition of this matter and any subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, Respondent's agreements and admissions are not intended or made for any other use, such as in the context of another state or federal government regulatory agency proceeding, state or federal civil or criminal proceeding, any state or federal court proceeding, or any credentialing or privileges matter.

Conduct); Count III, violation of NRS 630.3062(2) (Altering Medical Records); Count IV, violation of NRS 630.3062(2) (Altering Medical Records); Count V, violation of NRS 630.301(6) (Disruptive Behavior That Interferes With Patient Care or Has an Adverse Impact on the Quality of Patient Care); Count VI, violation of NRS 630.301(9) (Engaging in Conduct That Brings the Medical Profession Into Disrepute); Count VII, violation of NRS 630.304(6) (Attempting by Way of Intimidation, Coercion or Deception, to Obtain or Retain a Patient or to Discourage the Use of a Second Opinion); Count VIII, violation of NRS 630.305(1)(a) (Receiving From Any Person Compensation Which is Intended or Tends to Influence the Physician's Objective Evaluation or Treatment of a Patient); Count IX, violation of NRS 630.3062(4) (Failure to Make the Medical Records of a Patient Available for Inspection and Copying as Provided in NRS 629.061); and Count X, violation of NRS 630.3065(2)(a) (Failure to Comply With Order of the Board or Committee Designated by the Board to Investigate a Complaint).

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

4. Respondent was properly served with a copy of this Complaint, has reviewed and understands this Complaint, and has had the opportunity to consult with competent counsel concerning the nature and significance of this Complaint.

5. Respondent is hereby advised of her rights regarding this administrative matter, and of her opportunity to defend against the allegations in the Complaint. Specifically, Respondent has certain rights in this administrative matter as set out by the United States Constitution, the Nevada Constitution, the Medical Practice Act, the Nevada Open Meeting Law (OML), which is contained in NRS Chapter 241, and the Nevada Administrative Procedure Act (APA), applicable to certain regulatory bodies, which is contained in NRS Chapters 233B and 622A. These rights include the right to a formal hearing on the allegations in the Complaint, the right to representation by counsel, at her own expense, in the preparation and presentation of her defense, the right to confront and cross-examine the witnesses and evidence against her, the right to written findings of fact, conclusions of law and order reflecting the final decision of the Board, and the right to judicial review of the Board's order, if the decision is adverse to her.

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6. Respondent understands that, under the Board's charge to protect the public by regulating the practice of medicine, the Board may take disciplinary action against Respondent's license, including license probation, license suspension, license revocation and imposition of administrative fines, as well as any other reasonable requirement or limitation, if the Board concludes that Respondent violated one or more provisions of the Medical Practice Act.

7. Respondent understands and agrees that this Agreement, by and between Respondent and the IC, is not with the Board, and that the IC will present this Agreement to the Board for consideration in open session at a duly noticed and scheduled meeting. Respondent understands that the IC shall advocate for the Board's approval of this Agreement, but that the Board has the right to decide in its own discretion whether or not to approve this Agreement. Respondent further understands and agrees that if the Board approves this Agreement, then the terms and conditions enumerated below shall be binding and enforceable upon her and the Board.

B. Terms & Conditions

NOW, THEREFORE, in order to resolve the matters addressed herein, i.e., the matters with regard to the Complaint, Respondent and the IC hereby agree to the following terms and conditions:

1. Jurisdiction. Respondent is, and at all times relevant to the Complaint has been, a physician licensed to practice medicine in Nevada subject to the jurisdiction of the Board as set forth in the Medical Practice Act.

2. Representation by Counsel/Knowing, Willing and Intelligent Agreement. Respondent acknowledges she is represented by counsel, and wishes to resolve the matters addressed herein with said counsel. Respondent agrees that if representation by counsel in this matter materially changes prior to entering into this Agreement and for the duration of this Agreement, that counsel for the IC will be timely notified of the material change. Respondent agrees that she knowingly, willingly and intelligently enters into this Agreement after deciding to have a full consultation with and upon the advice of legal counsel.

3. Waiver of Rights. In connection with this Agreement, and the associated terms and conditions, Respondent knowingly, willingly and intelligently waives all rights in connection

with this administrative matter. Respondent hereby knowingly, willingly and intelligently waives all rights arising under the United States Constitution, the Nevada Constitution, the Medical Practice Act, the OML, the APA, and any other legal rights that may be available to her or that may apply to her in connection with the administrative proceedings resulting from the Complaint filed in this matter, including defense of the Complaint, adjudication of the allegations set forth in the Complaint, and imposition of any disciplinary actions or sanctions ordered by the Board. Respondent agrees to settle and resolve the allegations of the Complaint as set out by this Agreement, without a hearing or any further proceedings and without the right to judicial review.

4. **Acknowledgement of Reasonable Basis to Proceed**. Respondent acknowledges that the IC believes it has a reasonable basis to allege that Respondent engaged in conduct that is grounds for discipline pursuant to the Medical Practice Act. The IC acknowledges Respondent is not admitting that the IC's claims/counts as alleged in the Complaint have merit. Respondent is agreeing to resolve this matter to avoid the costs of hearing and potential subsequent litigation. Respondent asserts if this matter were to proceed to hearing, she has evidence, witnesses, expert witness(es) and defenses to the counts/claims alleged in the Complaint, but for the purposes of resolving the matter and for no other purpose, Respondent waives the presentation of evidence, witnesses, expert witnesses, and defenses in order to effectuate this Agreement.

5. **Consent to Entry of Order**. In order to resolve this Complaint pending against Respondent, Respondent hereby agrees that the Board may issue an order finding that Respondent engaged in conduct that is grounds for discipline pursuant to the Medical Practice Act. Accordingly, the following terms and conditions are hereby agreed upon:

A. Respondent admits to Count IV, violation of NRS 630.3062(2) (Altering Medical Records); Count IX, violation of NRS 630.3062(4) (Failure to Make the Medical Records of a Patient Available for Inspection and Copying as Provided in NRS 629.061); and Count X, violation of NRS 630.3065(2)(a) (Failure to Comply With Order of the Board or Committee Designated by the Board to Investigate a Complaint).

B. Respondent's license to practice medicine in the state of Nevada shall be revoked for a period of one year, with the revocation to be immediately stayed.

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C. Respondent's license shall be subject to a term of probation for a period of time not to exceed thirty-six (36) months from the date of the Board's acceptance, adoption and approval of this Agreement (Probationary Period). Respondent must complete the following terms and conditions within the Probationary Period and demonstrate compliance to the good faith satisfaction of the Board within thirty-six (36) months, including but not limited to, payment in full of the Fifteen Thousand Dollars ($15,000.00) stated as a condition below in C(2), and at that time she may petition the Board to lift the probationary status of her license,. If Respondent fails to demonstrate compliance with the terms and conditions of this Agreement within thirty-six (36) months, or otherwise violates the terms of this Agreement or the Medical Practice Act, then the IC shall be authorized to immediately suspend Respondent's license to practice medicine in Nevada pending an Order To Show Cause Hearing on immediate revocation of her license, which hearing will be duly noticed. The following terms and conditions shall apply during Respondent's probationary period:

(1) Respondent shall complete the University of San Diego, Physician Assessment and Competency Evaluation Program (PACE), Competency Assessment, and, if recommended by PACE, the Fitness For Duty (FFD) evaluation, all at Respondent's expense, and pass all of the above to the satisfaction of the Board;

(2) Respondent will pay the costs and expenses incurred in the investigation and prosecution of the above-referenced matter within thirty (30) months of the Board's acceptance, adoption and approval of this Agreement, the current amount being Fifteen Thousand Dollars ($15,000.00), not including any costs that may be necessary to finalize this Agreement. An initial payment of $500.00 will be due within thirty (30) calendar days of the Board's approval of this Agreement. Based on Respondent's current financial circumstances, payment of $500.00 per month will be due on the first day of the month beginning on July 1, 2019, through December 1, 2021, and, if necessary, the first day of each month thereafter until satisfied in full.

(3) Respondent shall take twenty two and one half (22.5) hours of continuing medical education (CME) related to the University of Nevada, Reno School of Medicine

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(UNRMED) Best Practices and Tools for Prescribing Controlled Substances within twelve (12) months from the date of the Board's acceptance, adoption and approval of this Agreement. The aforementioned hours of CME shall be in addition to any CME requirements that are regularly imposed upon Respondent as a condition of licensure in the state of Nevada and shall be approved by the Board to meet this requirement prior to their completion and are at Respondent's expense.

(4) Respondent agrees to perform one hundred (100) hours of community service at a nonprofit entity, having a medical nexus and without compensation, in a manner and capacity mutually and reasonably agreed to by Respondent and the Board, and approved by the Board in advance of its completion, within six months of the acceptance, adoption and approval of this Agreement.

(5) During the probationary period, Respondent shall not supervise any Physician Assistant, or collaborate with any Advanced Practice Registered Nurse.

(6) During the probationary period, Respondent shall submit to random and unannounced medical records audits performed by an investigator with the Board.

(7) During the probationary period, Respondent shall successfully complete all requirements and comply with all orders and conditions, past or future, of the Board, specifically including but not limited to, the Board's Order issued on December 8, 2017, in its Cases Numbered 12-10032-1 and 14-10032-1.

D. This Agreement shall be reported to the appropriate entities and parties as required by law, including, but not limited to, the National Practitioner Data Bank.

E. Respondent shall receive a Public Letter of Reprimand.

F. The remaining counts of the Complaint shall be dismissed with prejudice.

6. **Release From Liability**. In execution of this Agreement, Respondent understands and agrees that the State of Nevada, the Board, and each of its members, staff, counsel, investigators, experts, peer reviewers, committees, panels, hearing officers, consultants and agents are immune from civil liability for any decision or action taken in good faith in response to information acquired by the Board. NRS 630.364(2)(a). Respondent agrees to release the State of

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Nevada, the Board, and each of its members, staff, counsel, investigators, experts, peer reviewers, committees, panels, hearing officers, consultants and agents from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims and demands whatsoever, known and unknown, in law or equity, that Respondent ever had, now has, may have or claim to have, against any or all of the persons, government agencies or entities named in this paragraph arising out of, or by reason of, this investigation, this Agreement or the administration of the case referenced herein.

7. **Procedure for Adoption of Agreement**. The IC and counsel for the IC shall recommend approval and adoption of the terms and conditions of this Agreement by the Board in resolution of this Complaint. In the course of seeking Board acceptance, approval and adoption of this Agreement, counsel for the IC may communicate directly with the Board staff and the adjudicating members of the Board.

Respondent acknowledges that such contacts and communications may be made or conducted ex parte, without notice or opportunity to be heard on her part until the public Board meeting where this Agreement is discussed, and that such contacts and communications may include, but may not be limited to, matters concerning this Agreement, the Complaint and any and all information of every nature whatsoever related to this matter. The IC and its counsel agree that Respondent may appear at the Board meeting where this Agreement is discussed and, if requested, respond to any questions that may be addressed to the IC or the IC's counsel.

8. **Effect of Acceptance of Agreement by Board**. In the event the Board accepts, approves and adopts this Agreement, the Board shall issue a final order, making this Agreement an order of the Board, and, pending full compliance with the terms herein, the case shall be closed and the remaining counts of the Complaint shall be dismissed with prejudice.

9. **Effect of Rejection of Agreement by Board**. In the event the Board does not accept, approve and adopt this Agreement, this Agreement shall be null, void and of no force and effect except as to the following agreement regarding adjudications: (1) Respondent agrees that, notwithstanding rejection of this Agreement by the Board, nothing contained in this Agreement and nothing that occurs pursuant to efforts of the IC to seek the Board's acceptance of this

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Agreement shall disqualify any member of the adjudicating panel of the Board from considering this Complaint and from participating in disciplinary proceedings against Respondent, including adjudication of this case; and (2) Respondent further agrees that she shall not seek to disqualify any such member absent evidence of bad faith.

10. **Binding Effect**. If approved by the Board, Respondent understands that this Agreement is a binding and enforceable contract upon Respondent and the Board.

11. **Forum Selection Clause**. The parties agree that in the event either party is required to seek enforcement of this Agreement in district court, the parties consent to such jurisdiction and agree that exclusive jurisdiction shall be in the Second Judicial District Court, State of Nevada, Washoe County.

12. **Attorneys' Fees and Costs**. The parties agree that in the event an action is commenced in district court to enforce any provision of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

13. **Failure to Comply with Terms**. Should Respondent fail to comply with any term or condition of this Agreement once the Agreement has been accepted, approved and adopted by the Board, the IC shall be authorized to immediately suspend Respondent's license to practice medicine in Nevada pending an Order To Show Cause Hearing, which will be duly noticed. Failure to comply with the terms of this Agreement, including failure to pay any fines, costs, expenses or fees owed to the Board, is a failure to comply with an order of the Board, which may result in additional disciplinary action being taken against Respondent. NRS 630.3065(2)(a).

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Further, Respondent's failure to remit payment to the Board for monies agreed to be paid as a condition of this Agreement may subject Respondent to civil collection efforts.

Dated this 1 day of April, 2019.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____
Donald K. White, Esq., Deputy General Counsel
Attorney for the Investigative Committee

Dated this _____ day of _____, 2019.

Hogan Hulet PLLC

By: _____
Kenneth E. Hogan, Esq.,
Attorney for Respondent

Dated this _____ day of _____, 2019.

_____
Maryanne D. Phillips, M.D., Respondent

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Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, Nevada 89521
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IT IS HEREBY ORDERED that the foregoing Settlement Agreement is approved and accepted by the Nevada State Board of Medical Examiners on the 7th day of June, 2019, with the final total amount of costs due of $15,000.00.

D Prabhu Rachakonda MD

Rachakonda D. Prabhu, M.D., President
NEVADA STATE BOARD OF MEDICAL EXAMINERS

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, Nevada 895521
(775) 688-2559

EXHIBIT 2

EXHIBIT 2

ENTITY INFORMATION

ENTITY INFORMATION

Entity Name:

VIDA SPA LLC

Entity Number:

E0325412016-3

Entity Type:

Domestic Limited-Liability Company (86)

Entity Status:

Active

Formation Date:

07/22/2016

NV Business ID:

NV20161430784

Termination Date:

Perpetual

Annual Report Due Date:

7/31/2021

Series LLC:

☑

Restricted LLC:

☐

REGISTERED AGENT INFORMATION

Name of Individual or Legal Entity:

COOPER COONS, LTD

Status:

Active

CRA Agent Entity Type:

CRA - Corporation

Registered Agent Type:

Commercial Registered Agent

NV Business ID:

NV20121752051

Office or Position:

Jurisdiction:

CLARK COUNTY

Street Address:

10655 PARK RUN DR STE 130, Las Vegas, NV, 89144, USA

Mailing Address:

Individual with Authority to Act:

Fictitious Website or Domain Name:

OFFICER INFORMATION

☐ **VIEW HISTORICAL DATA**

Title	Name	Address	Last Updated	Status

Title	Name	Address	Last Updated	Status
Manager	GISSELLE PLATFOOT	3225 S. RAINBOW BLVD, Suite 107, Las Vegas, NV, 89146, USA	07/25/2019	Active

Page 1 of 1, records 1 to 1 of 1

Filing History Name History Mergers/Conversions

Return to Search Return to Results

EXHIBIT 3

EXHIBIT 3

Business License Detail Information

License Number:	2003447.081-172
MJBL Number:	
Business:	Vida Spa, LLC 3225 S Rainbow Blvd Las Vegas, NV 89146
Business Telephone:	(937) 638-9684
License Category:	Cosmetology Establishment - Other Services
Status:	Licensed
Date of License:	12/21/2016
Out of Business Date:	

Business Owner(s)
Art Matrix, Inc. Gisselle, Platfoot

Return to Previous Page
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EXHIBIT 4

EXHIBIT 4

NEVADA STATE BOARD OF MEDICAL EXAMINERS
325 E. Warm Springs Road, Suite 225
Las Vegas, NV 89119

Rachakonda D. Prabhu, M.D.
Board President

Edward O. Cousineau, J.D.
Executive Director

March 19, 2021

Maryanne Phillips, M.D.
10620 Southern Highlands Pkwy., #110251
Las Vegas, NV 89141

RE: BME CASE #: [redacted]
PATIENT: [redacted]**; DOB:** [redacted]

Dear Dr. Phillips:

We have received information and a complaint regarding your medical treatment of the above named patient. The complaint alleges your care and treatment of the above named patient may have fallen below the standard of care.

It is alleged:

1. The patient presented to you on or around June 27, 2020, for an abdominal liposuction with fat transfer to the buttocks at Vida Spa located at 3225 S. Rainbow Blvd., Suite 206 Las Vegas, NV 89146.

2. Although the patient had significant blood loss during the procedure and was lethargic, disoriented,cold, weak pulses and had difficulty breathing you discharged the patient, knowingly placing the patient in extreme danger.

3. The patient was placed into a wheelchair; however, the patient's daughter was unable to help her inside the car. The patient had a syncopal event in the parking lot of Vida Spa and fell to the pavement. EMS was called and the patient was transported to the hospital.

4. The patient was diagnosed with severe sepsis without septic shock, acute metabolic encephalopathy, small bowel perforation x4, duodenal perforation, LLQ hernia, acute blood loss anemia, hypernatremia and hyperchloremia, severe dehydration and hypokalemia and underwent surgical repair.

5. Spring Valley Hospital made multiple attempts to contact Vida Spa; however, no one at Vida Spa, or yourself, contacted the hospital or followed up with the patient. You left the patient abandoned and in critical condition.

It is further alleged:

6. Neither yourself nor Tammy Hankins, PA-C have a controlled substance license in the State of Nevada; however, the patient was prescribed controlled substances by Salvador Borromeo, M.D. whom the patient has never seen, or been examined by, and therefore Dr. Borromeo could not have written an order for administration of the controlled substances. You may be making a report which you know to be false for signing off on the patient's chart and writing Dr. Borromeo's name as the ordering physician.

It is further alleged:

7. You performed MAC sedation during a liposuction procedure at Vida Spa, LLC located at 3225 S. Rainbow Blvd., Suite 107 Las Vegas, NV 89146; however, this facility is not licensed as a medical facility. Therefore, you may be in violation of NRS 630.373.

It is further alleged:

8. You have continued to perform liposuction procedures with sedation at Vida Spa, LLC for multiple patients even though the facility is licensed as a cosmetology establishment and not a medical facility.

According to these allegations, you may have violated the Nevada Medical Practice Act, Nevada Revised Statutes, Chapters 629 and 630, and Nevada Administrative Code, Chapters 629 and 630 (NMPA).

In order to determine whether or not there has been a violation of the NMPA, **please provide a written response to each allegation noted above.** Please include any further information you believe would be useful for the Board to make a determination in this matter. **Please reply to this request within 30 calendar days.**

The Nevada State Board of Medical Examiners investigates all information received concerning possible violations of the NMPA. We make no determination as to whether or not there has been a violation of the NMPA until a thorough investigation is completed. As a physician under investigation by the Board, you are required by the NMPA to provide the requested information, and your cooperation is not subject to the whistle-blower protections provided to physicians in NRS 630.364(3).

Please be advised that if the particular allegations referenced above did occur, and depending on the facts and circumstances, then you may have violated the NMPA, specifically including but not limited to: NRS 630.301(4), NAC 630.040, NRS 630.306(1)(b)(3), NRS 630.373 & NRS 630.3062(1)(a)(c).

Respectfully,

Kim Friedman, CMBI
Sr. Investigator
Las Vegas Office

The Investigative Committee of the Board of Medical Examiners of the State of Nevada

* * * * *

In the Matter of the Investigation of:	)	
	)	
	)	Case No. [redacted]
Maryanne Phillips, M.D.	)	
	)	
License No. 7635	)	
_____	)	

ORDER TO PRODUCE HEALTH CARE RECORDS

The Investigative Committee (IC) of the Board of Medical Examiners of the State of Nevada sends greetings to:

Maryanne Phillips, M.D.
10620 Southern Highlands Pkwy., #110251
Las Vegas, NV 89141

Pursuant to the authority of Nevada Revised Statute (NRS) 630.311(1), the IC directs you to produce and deliver to the Nevada State Board of Medical Examiners, the materials as set forth in this Order:

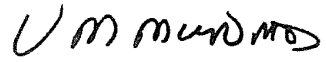
1. A formal written response to the allegations regarding the letter dated March 19, 2021.

Said response shall be provided to an investigator of the Nevada State Board of Medical Examiners **within 30 days of service** of this Order (Investigation Division, Attn. Kim Friedman, Sr. Investigator, Nevada State Board of Medical Examiners, 325 E. Warm Springs Rd., Ste. 225 Las Vegas, NV 89119.) Failure to comply and produce said response in the aforesaid manner may subject you to potential disciplinary action, to include a violation of NRS 630.3065(2)(a) and NRS 630.3062(4); further, the Investigative Committee may seek administrative sanctions as set forth in NRS 630.352.

Additionally, compliance with this order is deemed compulsory and shall not be deemed to be cooperation subject to the protections provided to a physician pursuant to NRS 630.364(3).

Dated this 19th day of March, 2021.

NEVADA STATE BOARD OF MEDICAL EXAMINERS
INVESTIGATIVE COMMITTEE



Victor M. Muro, M.D., Chairman
Nevada State Board of Medical Examiners
Investigative Committee

EXHIBIT 5

EXHIBIT 5

NEVADA STATE BOARD OF MEDICAL EXAMINERS
325 E. Warm Springs Road, Suite 225
Las Vegas, NV 89119

Rachakonda D. Prabhu, M.D.
Board President

Edward O. Cousineau, J.D.
Executive Director

Second Request

April 27, 2021

Maryanne Phillips, M.D.
10620 Southern Highlands Pkwy., #110251
Las Vegas, NV 89141

RE: BME CASE NUMBER [redacted]
PATIENT: [redacted] **; DOB:** [redacted]

Dear Dr. Phillips:

This is the **second request** for your reply regarding the patient associated with this case. Please provide the requested reply to the allegations. You received an Order to reply with the letter dated March 19, 2021, but have not yet complied. Failure to comply with an Order of the Board constitutes grounds for initiating disciplinary action. *See* NRS 630.3065. **Please reply to this request within 15 days.**

Be advised that your failure to produce and make available health care records to an authorized representative or Investigator of the Board, as prescribed by Nevada law is grounds for the Investigative Committee to initiate a Formal Complaint against you, which may result in disciplinary action or denial of licensure (NRS 629.061; 630.3062(4); 630.352).

Providing the requested information is deemed a professional obligation of any physician under investigation by the Board and shall not be deemed to be cooperation subject to the whistle-blower protections provided to physicians in NRS 630.364(3).

Enclosed is a copy of the original letter and Order to reply sent to you on March 19, 2021.

Should you have any questions you may contact me at (702) 486-3339.

Respectfully,

Kim Friedman, CMBI
Sr. Investigator
Nevada State Board of Medical Examiners

Telephone 702-486-3300 • Fax 702-486-3301 • www.medboard.nv.gov • nsbme@medboard.nv.gov

EXHIBIT 6

EXHIBIT 6

LAW OFFICES OF
LYN E. BEGGS

May 19, 2021

VIA E-mail & USPS

Kim Friedman, Senior Investigator
NSBME
325 E. Warm Spring Rd. Ste. 225
Las Vegas NV 89119

kfriedman@medboard.nv.gov

Re: Maryanne Phillips, M.D., BME Case No. [redacted]

Dear Ms. Friedman:

I am responding on behalf of Dr. Maryanne Phillips to your letter of March 19, 2021 regarding a complaint received by the Nevada State Board of Medical Examiners ("Board"). We appreciate the brief extension in which to reply to the letter.

Background

Dr. Phillips currently holds an active license to practice medicine in the state of Nevada which was originally issued in December 1995. As the Board is aware, Dr. Phillips is currently on probation in case number 18-10032-1; Dr. Phillips remains in compliance with the terms of her probation.

In the spring of 2020, Dr. Phillips agreed to act as an independent contractor at Vida Spa in Las Vegas to provide anesthesia to patients undergoing certain medical procedures, including liposuction, on a limited part-time basis. To the best of Dr. Phillip's knowledge, Dr. Salvador Borromeo was acting as medical director for Vida Spa. Dr. Borromeo was supervising physician assistant, Tammy Hankins, who was performing almost all procedures at Vida Spa. Dr. Phillips does not have personal knowledge regarding how often Dr. Borromeo may have been on-site at Vida Spa as she was only at the Spa twelve to fifteen hours a week but does not recall seeing Dr. Borromeo during the times she was providing any medical services. After the incident in question,

M 316 California Ave #803 • Reno Nevada 89509 P 775.432.1918 F 775.473.3801 E lyn@lbeggslaw.com

Ms. Hankins left Vida Spa and Dr. Borromeo ceased acting in the capacity of medical director. Ms. Charmaine Porci, APRN, was the next medical director of Vida Spa until approximately March of 2021 when Evelyn Figueroa, APRN, started as medical director. As of the time of this letter, Ms. Figueroa continues to act as medical director of Vida Spa.

Dr. Phillips anticipates that only two to three liposuction procedures would be scheduled in any given week when she started at Vida Spa. To Dr. Phillips' knowledge Ms. Hankins would evaluate the patients for the procedure prior to the date of the procedure. Typically, only local tumescent anesthesia was utilized and was administered by Ms. Hankins, but on a few occasions, Dr. Phillips would be requested to administer propofol during these procedures as needed. These procedures were not performed by Dr. Phillips but rather by other providers at Vida Spa as further discussed herein. As an initial matter, it should be noted that at no time has Dr. Phillips ever administered, prescribed or possessed a controlled substance while practicing at Vida Spa.

On June 27, 2020, Dr. Phillips was notified that she was needed to provide anesthesia services during a procedure that was to be performed by Ms. Hankins. The patient at issue, L.C., was a forty-seven-year-old female who presented for liposuction of the abdomen and back with a fat transfer to the buttocks. Dr. Phillips' sole duty for Patient L.C. was administering anesthesia. The patient was administered tumescent xylocaine by Ms. Hankins. Dr. Phillips administered an infusion of propofol at 40 cc/hour. Dr. Phillips was present during the majority of patient L.C.'s procedure and her vitals were monitored continually.

After completing the procedure, Ms. Hankins indicated she was finished and left the procedure room leaving Dr. Phillips and a registered nurse with the patient. The nurse placed post-procedure dressings and then assisted the patient into her compression garments. Dr. Phillips does not recall having any significant concerns about Patient L.C.'s vitals but recalls that she seemed to be in quite a bit of discomfort. Dr. Phillips and the nurse assisted the patient into a wheelchair as per protocol and monitored the patient for a while longer. While Dr. Phillips was not wholly comfortable with discharging the patient, her vitals were stable and she was cognizant and answering questions. Dr. Phillips and the nurse were informed that the patient's daughter was waiting downstairs and both Dr. Phillips and the nurse assisted the patient down in the wheelchair. Upon reaching the patient's waiting daughter, the patient was assisted out of the wheelchair to get in the daughter's car, however the patient fainted as she rose from the wheelchair. Dr. Phillips immediately lay the patient down as appropriate after a syncopal event and directed the nurse to call 911. Paramedics arrived on scene very shortly after being called. The patient was transported by EMS to an area hospital.

Dr. Phillips informed the owner of Vida Spa of the incident and at approximately 4:30 p.m. on the same day, Dr. Phillips spoke with the Emergency Department ("ED") physician at Spring Valley Hospital regarding Patient L.C.'s condition and was informed that she was stable and that

fluids were being provided. Dr. Phillips is aware that the owner of Vida Spa also contacted the hospital as well as the patient's daughter to check on her status. Dr. Phillips has no knowledge of whether Ms. Hankins or Dr. Borromeo had any contact with the hospital regarding the patient.

Complaint Allegations

Your letter sets forth eight allegations. We have addressed each below.

1. *The patient presented to you on or around June 27, 2020, for an abdominal liposuction with fat transfer to the buttocks at Vida Spa located at 3225 S. Rainbow Blvd., Suite 206 Las Vegas, NV 89146.*

This is incorrect. Patient L.C. presented to Tammy Hankins P.A.-C for liposuction, not Dr. Phillips. Dr. Phillips was requested to provide anesthesia for the procedure only. Dr. Phillips only administered propofol to the patient during the procedure. Dr. Phillips monitored the patient with no undue concerns and discharged the patient as Ms. Hankins had left the spa after completing the liposuction procedure.

2. *Although the patient had significant blood loss during the procedure and was lethargic, disoriented, cold, weak pulses and had difficulty breathing you discharged the patient, knowingly placing the patient in extreme danger.*

As noted above Dr. Phillips did not perform the liposuction procedure. Dr. Phillips has had an opportunity to review the chart note for the patient (Dr. Phillips is not custodian of records for Vida Spa and accordingly is unable to provide a copy of the chart to the Board). In reviewing the chart note, while Ms. Hankins noted that the patient did have a large amount of blood loss during the procedure, the patient's vitals were primarily stable throughout the procedure. At the completion of the procedure, Ms. Hankins left the Spa prior to the patient being determined ready to be discharged. The chart note does not support that the patient had a weak pulse or difficulty breathing, rather the patient's vital remained stable. While the patient had some lethargy and disorientation, these were anticipated residual effects from the anesthesia; she was able to move from the procedure table to the wheelchair with little assistance and was alert and answering questions at the time she was discharged. While the patient did show some signs of discomfort/distress, immediately prior to assisting the patient down to her waiting daughter with the nurse, there was no indication of acute distress.

3. *The patient was placed into a wheelchair; however, the patient's daughter was unable to help her inside the car. The patient had a syncopal event in the parking lot of Vida*

Spa and fell to the pavement. EMS was called and the patient was transported to the hospital.

After the procedure, the patient, with limited assistance, moved from the procedure table to a wheelchair and was monitored for some time prior to being taken downstairs to meet her daughter who was present to pick her up. Dr. Phillips accompanied the nurse downstairs with the patient and while she was being assisted in the car, the patient suffered a syncopal event. Dr. Phillips immediately directed EMS be contacted and laid the patient down on the ground, which is standard of care in syncopal events. Upon arrival of EMS, Dr. Phillips informed the paramedics of the patient's condition prior to her being transported to the hospital.

4. *The patient was diagnosed with severe sepsis without septic shock, acute metabolic encephalopathy, small bowel perforation x4, duodenal perforation, LLQ hernia, acute blood loss anemia, hypernatremia and hyperchloremia, severe dehydration and hypokalemia and underwent surgical repair.*

As noted herein, Dr. Phillips did not perform the liposuction procedure and is not responsible for the injuries suffered by the patient. At the time of the procedure there was nothing to indicate to Dr. Phillips that the patient had suffered internal injuries requiring emergency attention.

5. *Spring Valley Hospital made multiple attempts to contact Vida Spa; however, no one at Vida Spa, or yourself, contact the hospital or follow up with the patient. You left the patient abandoned and in critical condition.*

Dr. Phillips has no personal knowledge of whether Spring Valley Hospital attempted to contact Vida Spa. As noted above, after the patient was transported to the hospital, Dr. Phillips contacted the ED physician and was informed the patient was stable. Dr. Phillips is aware that the owner of the spa also attempted to contact the hospital and the patient's daughter. Again, Dr. Phillips has no knowledge of whether Ms. Hankins, or her supervising physician, Dr. Borromeo, followed up with the patient after she was transported to the hospital. Dr. Phillips did not perform the procedure at issue and did not leave "the patient abandoned and in critical condition" as alleged.

6. *Neither yourself nor Tammy Hankins, PA-C have a controlled substance license in the State of Nevada; however, the patient was prescribed controlled substances by Salvador Borromeo M.D. whom the patient has never seen, or been examined by, and therefore Dr. Borromeo could not have written an order for administration of the controlled substances. You may be making a report which you know to be false for signing off on the patient's chart and writing Dr. Borromeo's name as the ordering physician.*

Dr. Phillips cannot speak to whether Ms. Hankins held a controlled substance registration as she was not her supervising physician. However, Dr. Phillips is acutely aware that she is not able to prescribe, possess or administer controlled substances, and was not able to do so in June 2020. It is Dr. Phillip's understanding that the patient was evaluated by Ms. Hankins prior to the procedure but is not aware of whether the patient was seen by Dr. Borromeo. Dr. Phillips did not write Dr. Borromeo's name on the patient's chart note; rather his name was already entered by either Ms. Hankins or the nurse, M. Ryan. Dr. Phillips only completed information related to the administration of propofol on the patient's chart and noted her conversation with the ED physician after the patient was transferred to the hospital.

7. *You performed MAC sedation during a liposuction procedure at Vida Spa, LLC located at 3225 S. Rainbow Blvd., Suite 107 Las Vegas, NV 89146; however, this facility is not licensed as a medical facility. Therefore, you may be in violation of NRS 630.373.*

Dr. Phillips first notes that conscious sedation need not be administered solely in a medical facility, but rather in the office of a provider or other facility which holds a permit to administer conscious sedation pursuant to chapter 449. Dr. Phillips was not aware that Vida Spa did not hold the necessary permits as such procedures had been performed prior to Dr. Phillips contracted with Vida Spa and she was led to believe all proper permits and certifications were in place. Dr. Phillips notes that no conscious sedation was administered to any patient after the incident in June 2020.

8. *You have continued to perform liposuction procedures with sedation at Vida Spa, LLC for multiple patients even though the facility is licensed as a cosmetology establishment and not a medical facility.*

Dr. Phillips does not perform liposuction procedures at Vida Spa and never has. Such procedures have always been performed by other licensed providers at Vida Spa. As noted above, no conscious sedation has been utilized at Vida Spa since June 2020; only tumescent local anesthesia is being used at this time.

Alleged Violations of Nevada Medical Practice Act

Your letter indicates that if the allegations noted did occur then Dr. Phillips may have violated NRS and NAC Chapters 630, the Nevada Medical Practice Act. We have addressed the alleged violations below.

NRS 630.301(4): NRS 630.301(4) provides that the Board may initiate disciplinary action against a licensee for malpractice. Malpractice is defined for purposes of the statute in NAC 630.040 as "the failure of a physician, in treating a patient, to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances." Dr. Phillips asserts that there was no

deviation from the standard of care in treating Patient L.C. Dr. Phillips' sole duty in the case was to administer propofol. The patient was monitored throughout the procedure. While the patient showed signs of discomfort and slight disorientation after the procedure, there was nothing to indicate that the patient had suffered any acute injury at the time that she was discharged as described above.

NRS 630.306(1)(b)(3): NRS 630.306(1)(b)(3) provides that the Board may initiate disciplinary action against a licensee for engaging in conduct which is a violation of a regulation adopted by the Nevada State Board of Pharmacy. While you have not referenced which regulation that Dr. Phillips is alleged to have violated, we anticipate that this would refer to the prohibition that a provider may not prescribed, administer, or possess a controlled substance without holding the proper credentials from the Nevada State Board of Pharmacy and the DEA. As noted above, Dr. Phillips is aware that she does not currently hold these registrations and is further aware of the prohibitions in place on her under her current terms of probation. Dr. Phillips has not violated these prohibitions and she has not prescribed, administered, or possessed any controlled substances.

NRS 630.373: NRS 630.373 is not in and of itself a basis for the initiation of disciplinary action, however it does prohibit the administration of general anesthesia, conscious sedation, or deep sedation in a provider office or facility which does not hold a permit to do so pursuant to NRS Chapter 449. As referenced above, Dr. Phillips had been led to believe that Vida Spa and Dr. Borromeo and Ms. Hankins held all necessary permits and certification for procedures at Vida Spa and would not have administered propofol there, albeit on only a few occasions, had she been aware of the lack of the proper permits.

NRS 630.3062(1)(a): 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" is grounds for the Board to initiate disciplinary action against a licensee. Dr. Phillips denies that there was a failure to maintain records for Patient L.C. Dr. Phillips has reviewed the chart for Patient L.C. which documented the procedure and her administration propofol as well as her follow up call with the ED physician after the patient was transported to the hospital. Dr. Phillips is not the custodian of records for Vida Spa but the Board may request a copy of the chart from the appropriate custodian of records.

NRS 630.3062(1)(c): NRS 630.3062(1)(c) provides that "making or filing a report which the licensee knows to be false, failing to file a record or report as required by law or knowingly or willfully obstructing or inducing another to obstruct such filing" is grounds for the Board to initiate disciplinary action against a licensee. Dr. Phillips denies that she has ever made such a report. Dr. Phillips assumes this is in reference to the allegation noted above that she wrote down Dr. Borromeo's name as the prescriber for controlled substances. This is inaccurate. Dr. Phillips did

not write down Dr. Borromeo's name or the medications he allegedly prescribed for Patient L.C. and has not violated NRS 630.3062(1)(c) in any manner and the initials next to Dr. Borromeo's name are those of the nurse present during the procedure, Maureen Ryan.

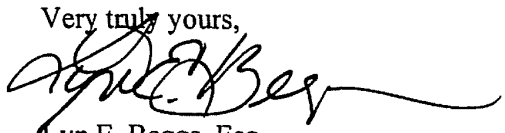
Summary

Dr. Phillips denies that she has violated NRS/NAC Chapters 630 in any way. Dr. Phillips is a part-time independent contractor at Vida Spa and was initially contracted to provide anesthesia services for cosmetic procedures performed by other licensed providers. While Dr. Phillips has administered some cosmetic injectables, for which she has proper training, she has performed no invasive surgical medical procedures at Vida Spa, including liposuction.

Regarding the events in question in the instant complaint, Dr. Phillips was requested to administer propofol for a liposuction patient of Tammy Hankins, PA-C, who was supervised by Dr. Salvador Borromeo. Dr. Phillips did not evaluate the patient for the purposes of performing liposuction and did not prescribe or administer any controlled substance to the patient. The patient was monitored during the procedure and showed no signs that she had suffered any acute injury. Ms. Hankins immediately left after completing the procedure, leaving Dr. Phillips and the nurse, Ms. Ryan to assist the patient post-procedure. While the patient did show signs of discomfort and disorientation, she did not evidence any signs of acute distress or injury. When the patient had a syncopal event while being discharged to her daughter's care, Dr. Phillips immediately had EMS contacted and cared for the patient until they arrived on scene. Dr. Phillips followed up with the ED physician that same afternoon and was informed that the patient was stable; Dr. Phillips was not made aware of the injuries sustained by the patient during the procedure performed by Ms. Hankins.

We respectfully request that upon review of this matter that the Investigative Committee close this matter without further action. Should you require any additional information to assist in review of this case, please do not hesitate to contact me.

Very truly yours,



Lyn E. Beggs, Esq.

Cc: Maryanne Phillips, M.D.

EXHIBIT 7

EXHIBIT 7

Mojave Heart & Vascular Group
Salvador G. Borromeo M.D. F.A.C.C.

01/05/2021

Dena McClish, Investigator Nevada State Board of Pharmacy
1050 E. Flamingo rd, Suite E217, Las Vegas NV 89119
Office: 702-486-6420 Ext. 154 Fax: 702-486-7903
Email: dmcclish@pharmacy.nv.gov

Re: Nevada Board of Pharmacy Investigative Case 20-211

Dear Ms. McClish,

While acting as the Medical Director for Vida Spa for the month of June 2020, I have prescribed controlled substances for their patients that will undergo invasive procedures as part of their conscious sedation and pain control. The prescription for these controlled substances were given to me with the name of the individual patients with corresponding medications and doses written by the Vida Spa's nurse or medical assistant for my approval and signature. These are patients that are scheduled to undergo procedures for the following day. The written prescriptions are then brought to Pharmacy Santa Maria which delivers the medications to the Vida Spa location. The medications which are accepted by the Vida Spa facility are then administered to the patient shortly before the scheduled procedure. This is done by the nurse assisting with the procedure or by Dr. Mary Anne Phillips who is employed by Vida Spa. The medications especially the controlled substances are stored in a secured and locked cabinet. Medications that are unused are disposed into the red-colored sharp containers which include medications for patients that have cancelled their procedures.

Included with this letter are copies of the charts of patients who received the controlled substances that I have prescribed. Please free to contact me for further information.

Respectfully,

Salvador G. Borromeo, MD.

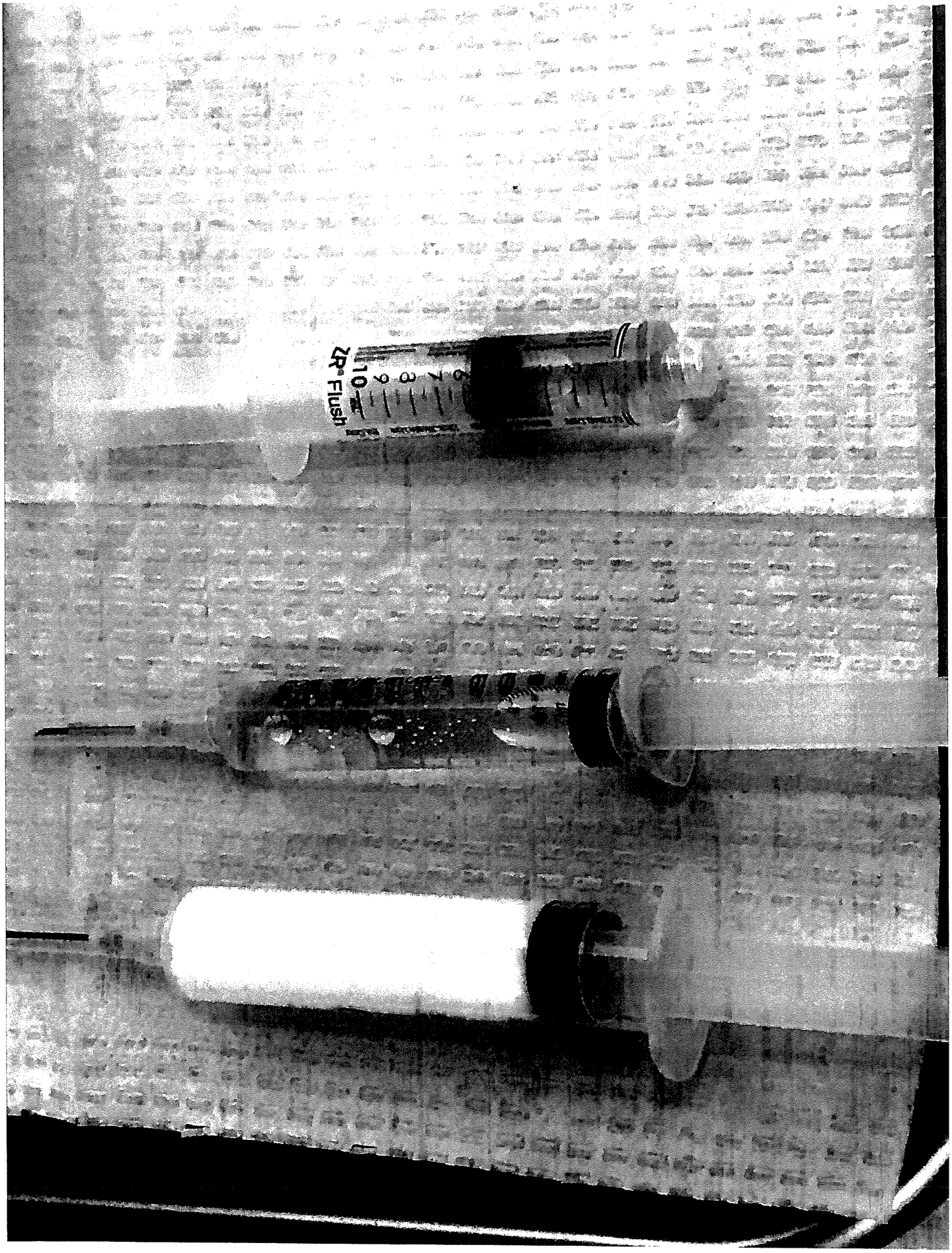
Mojave Heart and Vascular Group:
801-A2 South Rancho Drive. Las Vegas NV 89106 USA (702) 824-2307 Eax (800) 579-9591

EXHIBIT 8

EXHIBIT 8

Injectable
USP
Administration
21R030
01/2023
Rx only
FOR INFILTRATION
Not for epidemic
Contains
Each mL contains
20 mg; sodium chloride
preservative. May contain
pH 6.5 (5.0 to 7.0). Sterile
Insert. Store at 20 to 25°C
Room Temperature.]
RL-7430
Dist. by Hospira, Inc. Lake Forest
EXP 1DEC2021

20 mL Single Patient Use Vial
Propofol Injectio
Emulsion, USP
200 mg/20 mL
(10 mg/mL)
For Intravenous Administ
SHAKE WELL BEFORE USING
LOT: 21R030
EXP: 01/2023
Use Only
APOTHEX CORP.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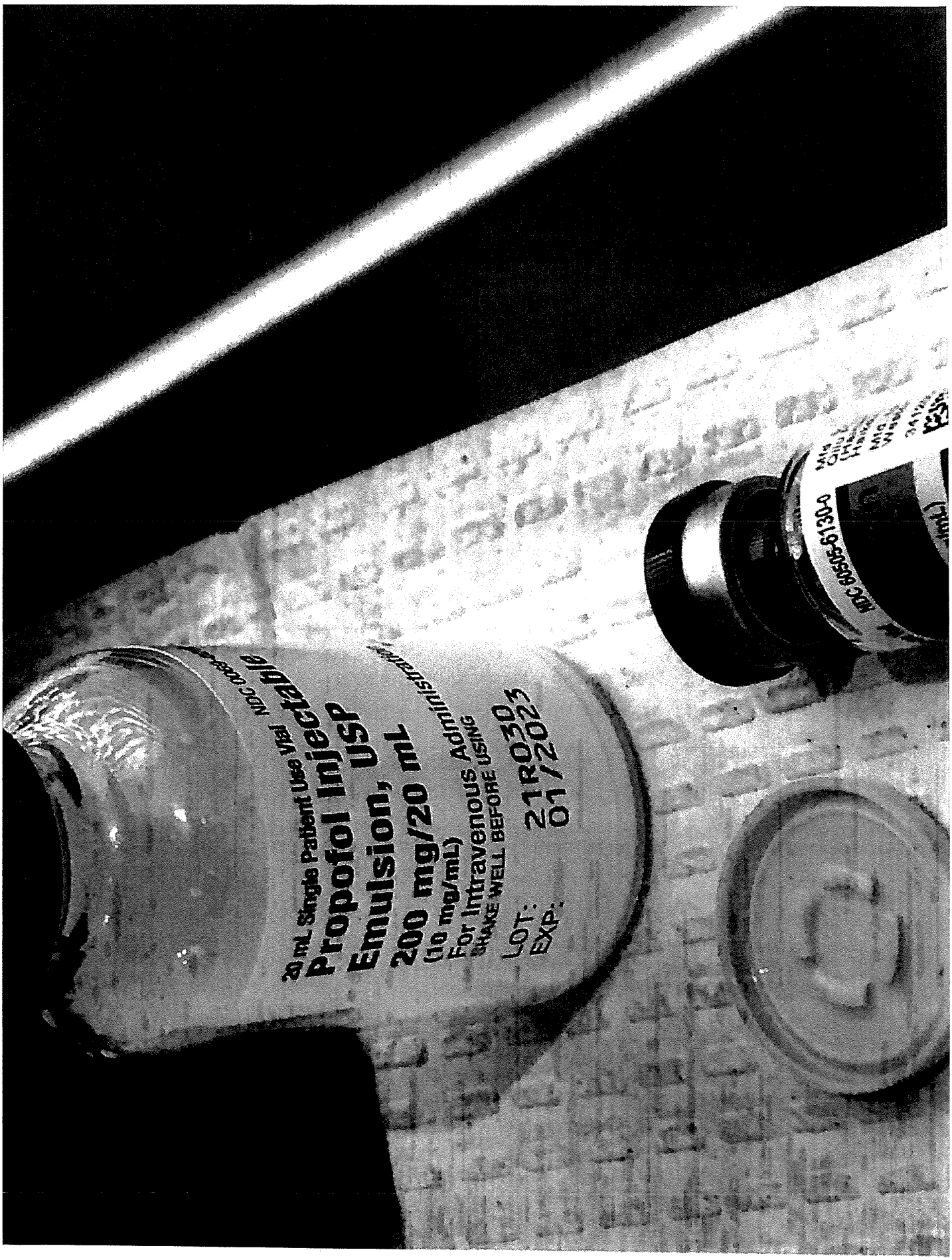
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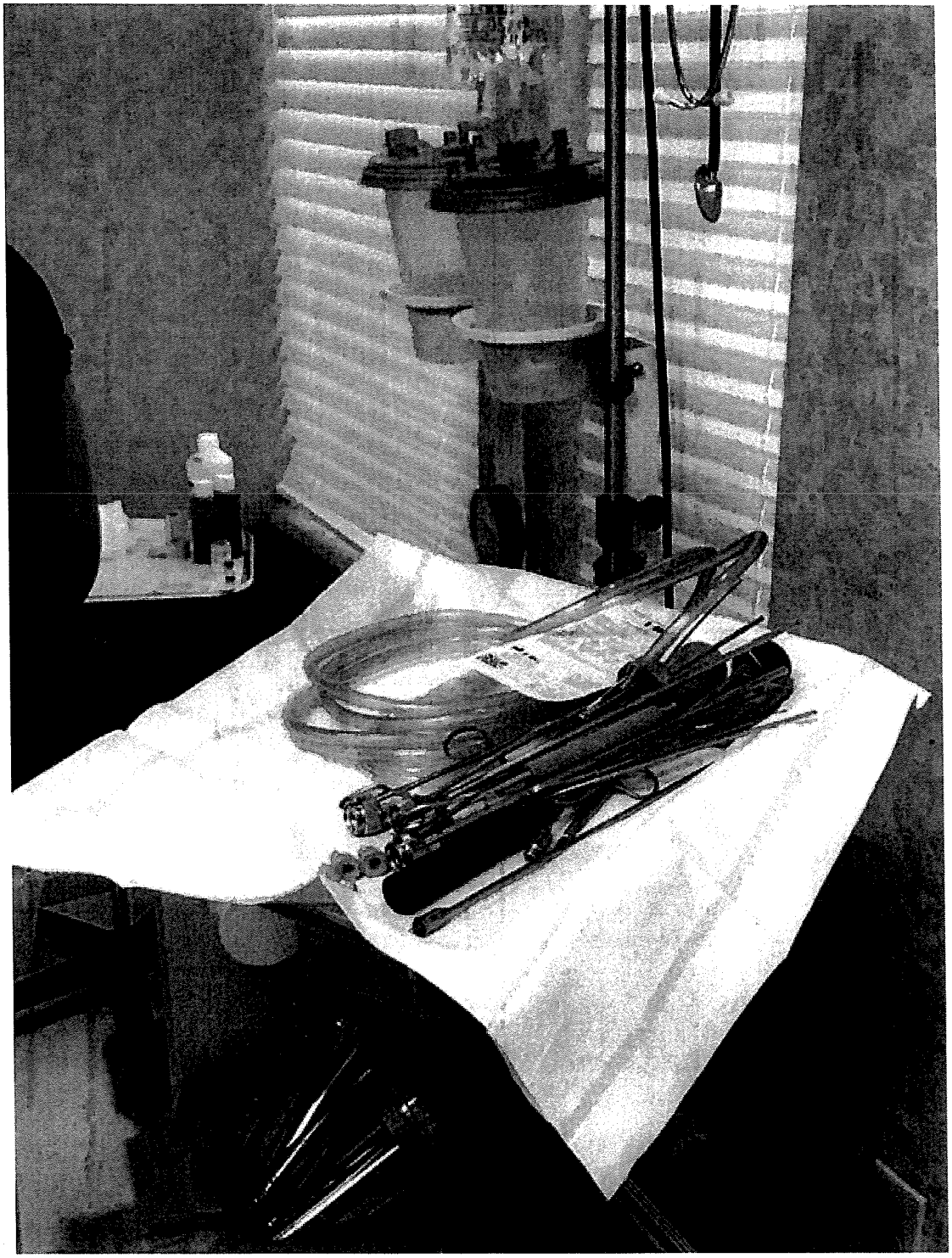

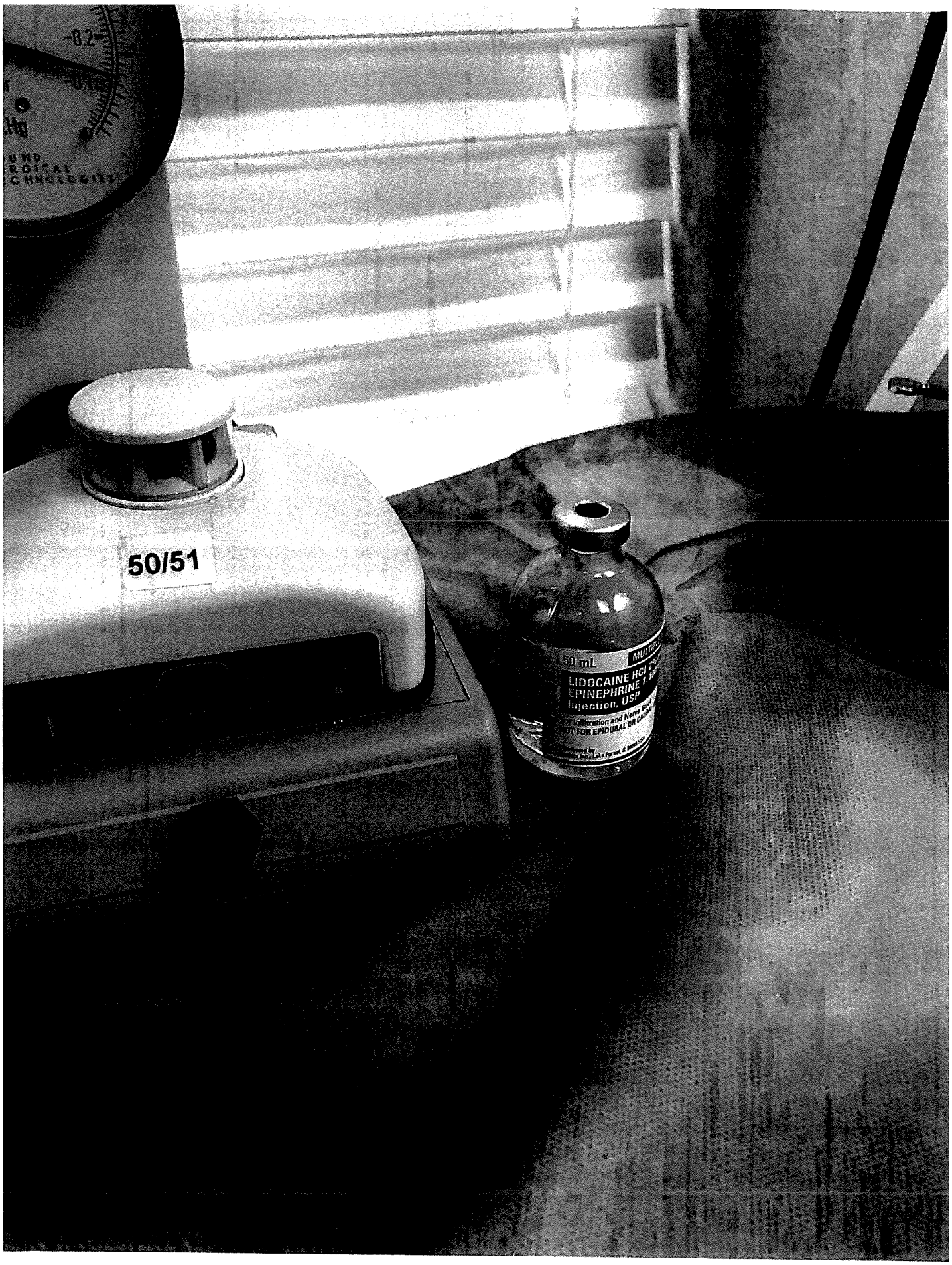
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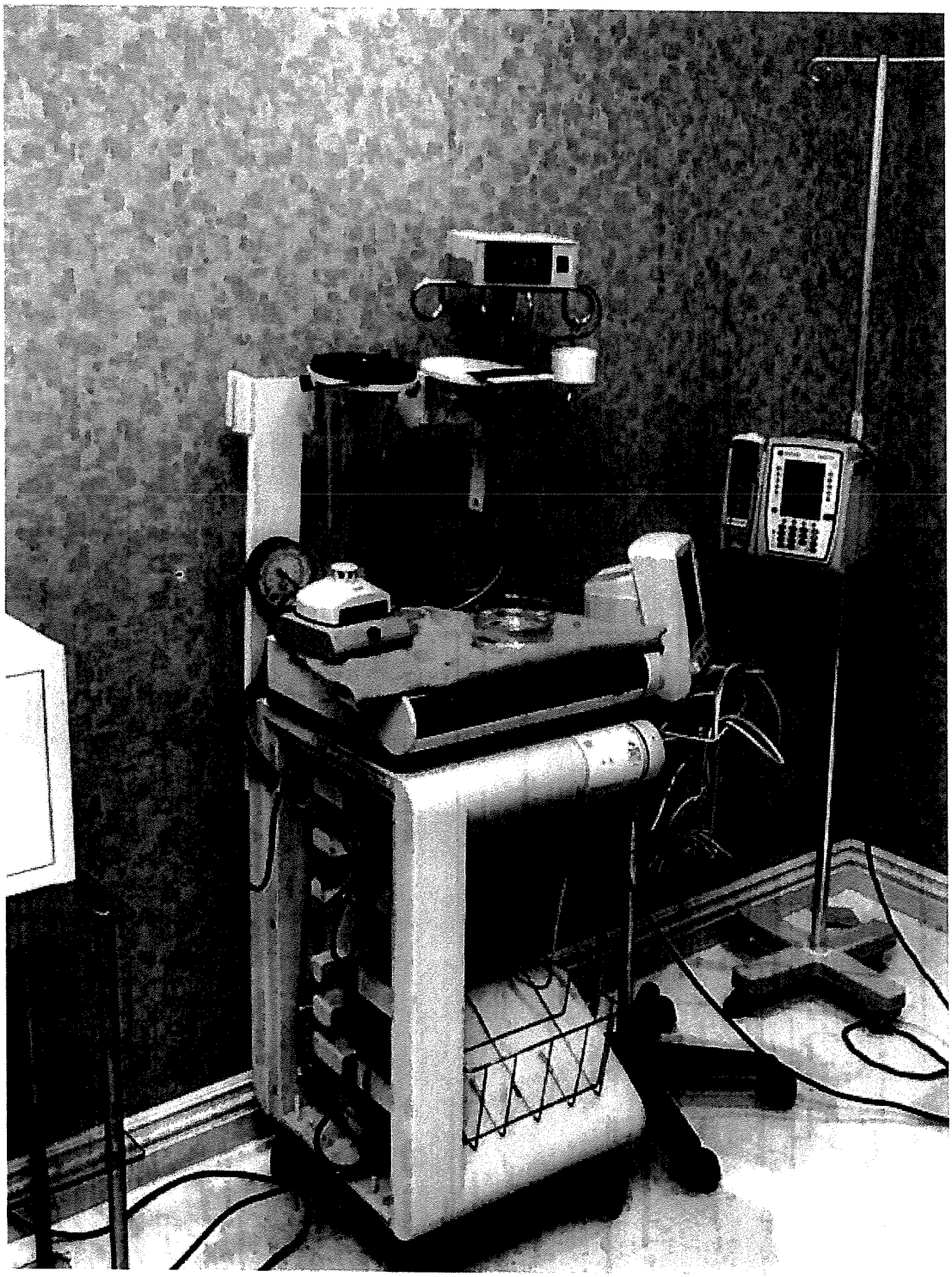
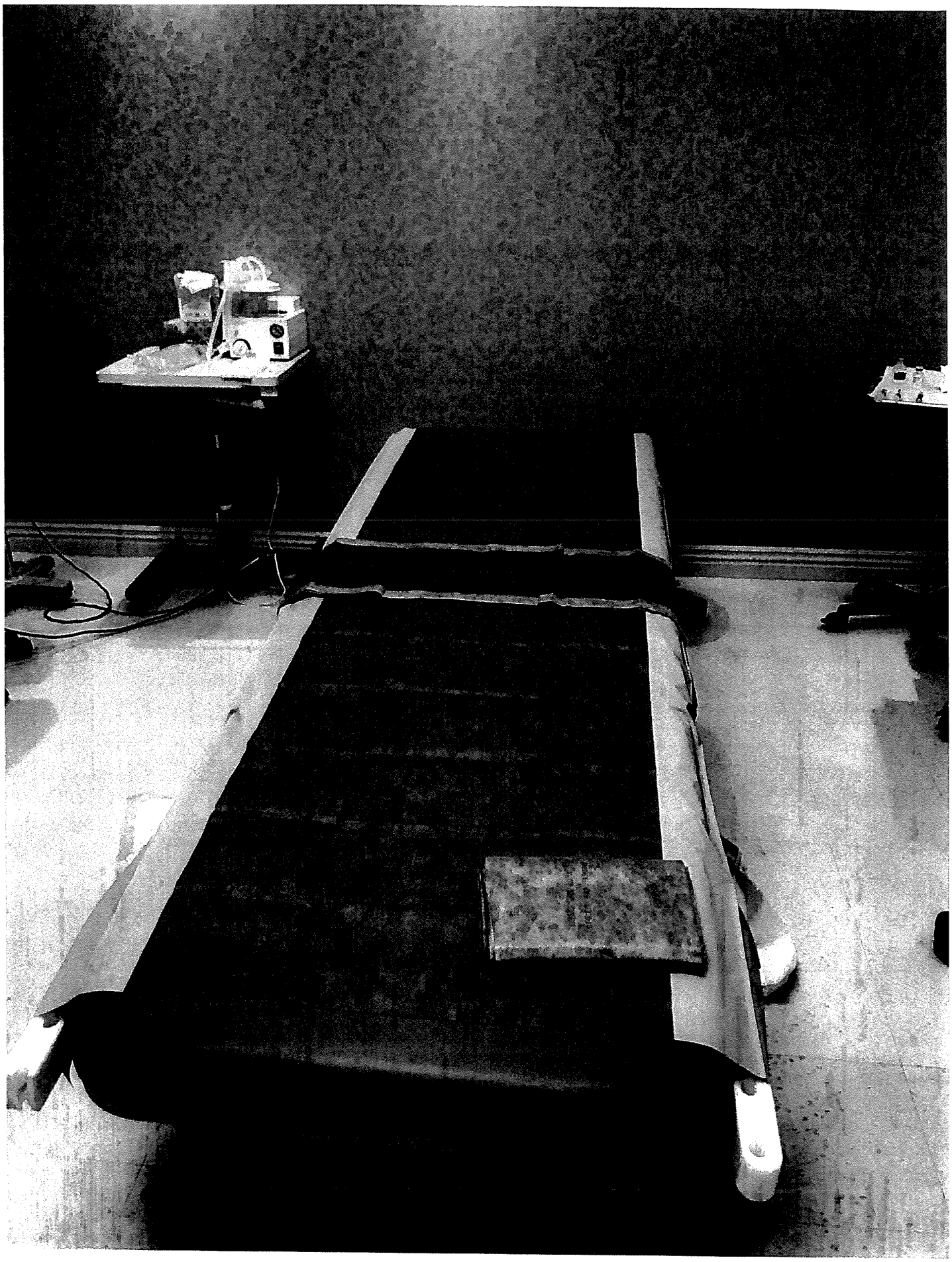
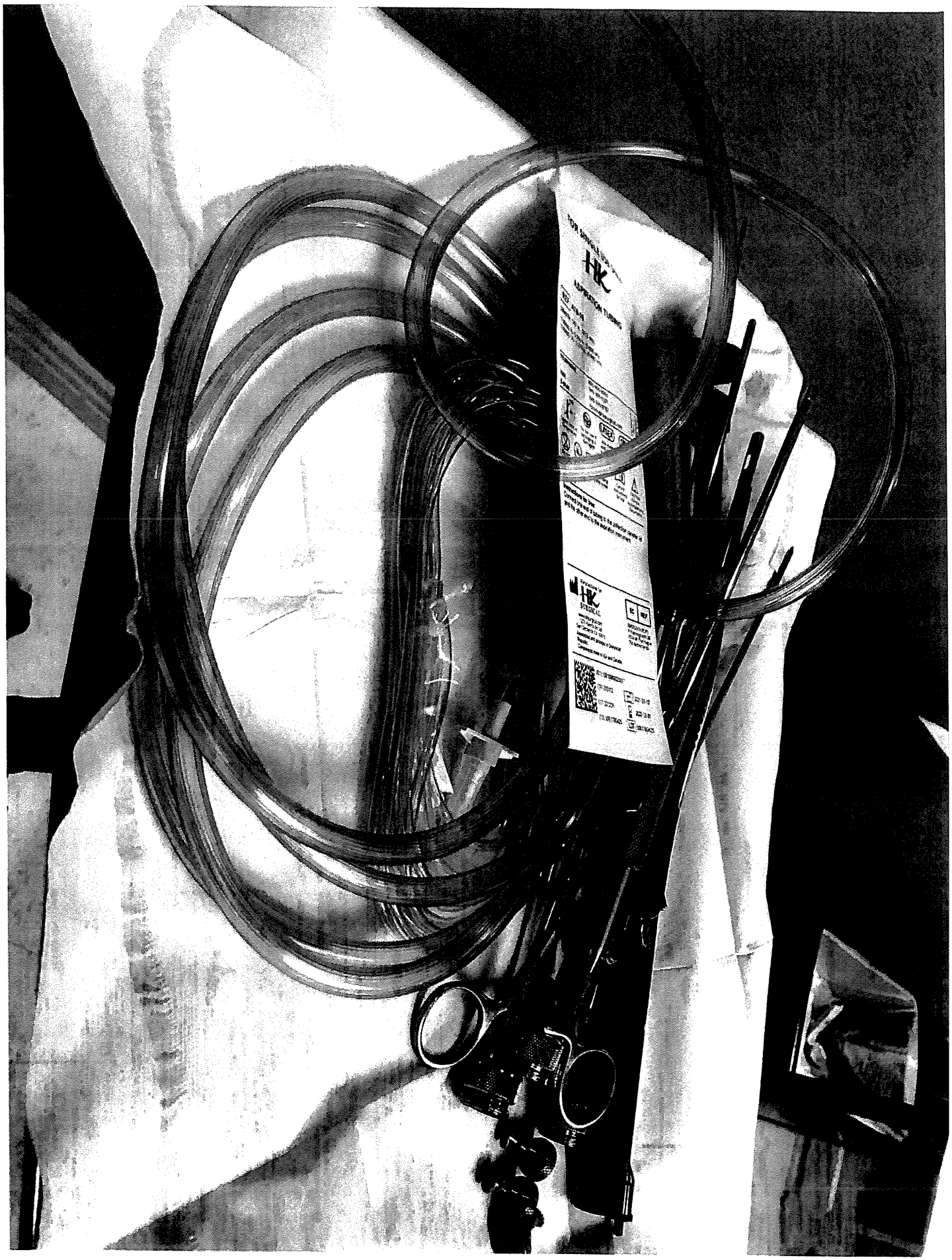
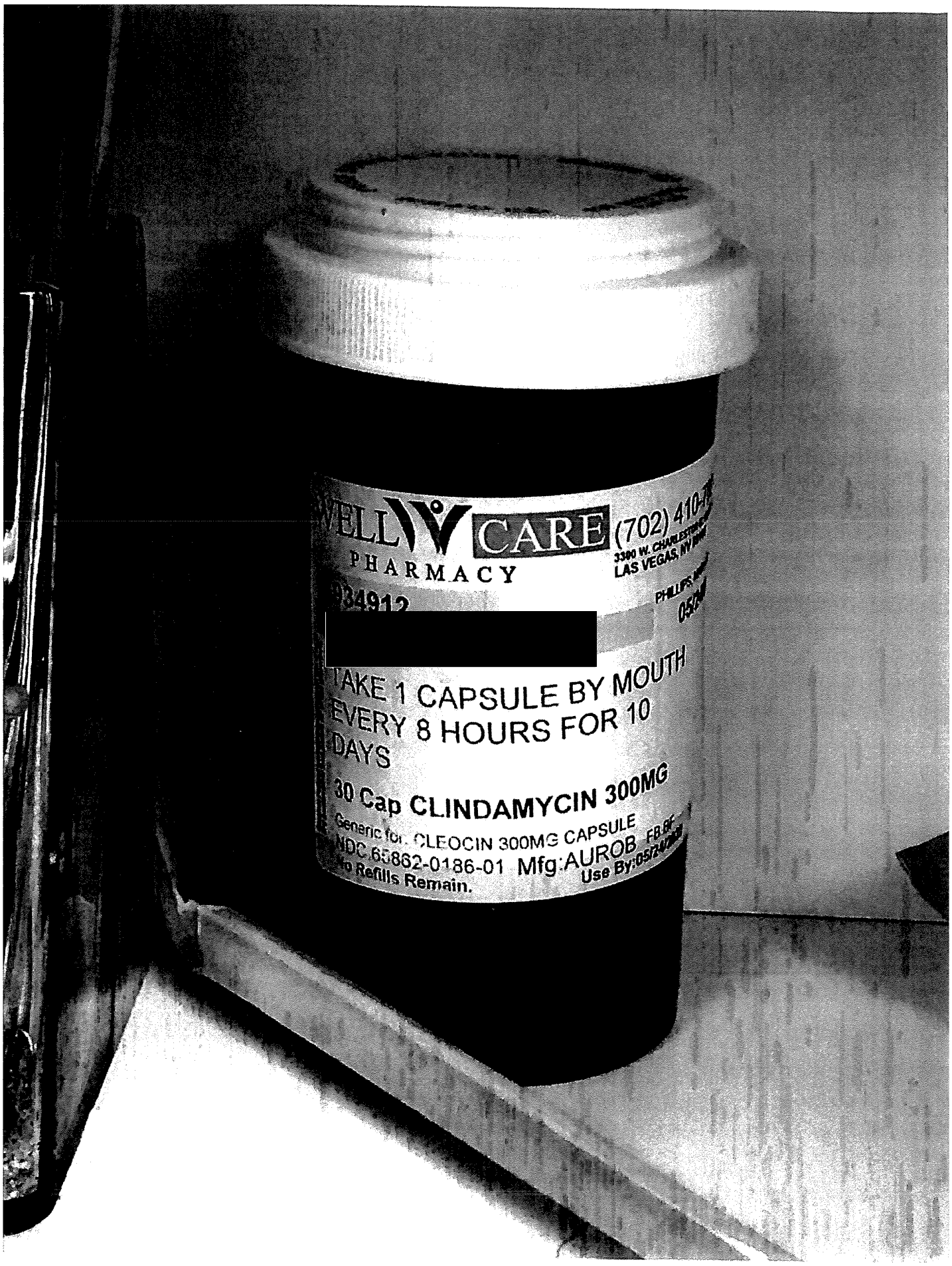


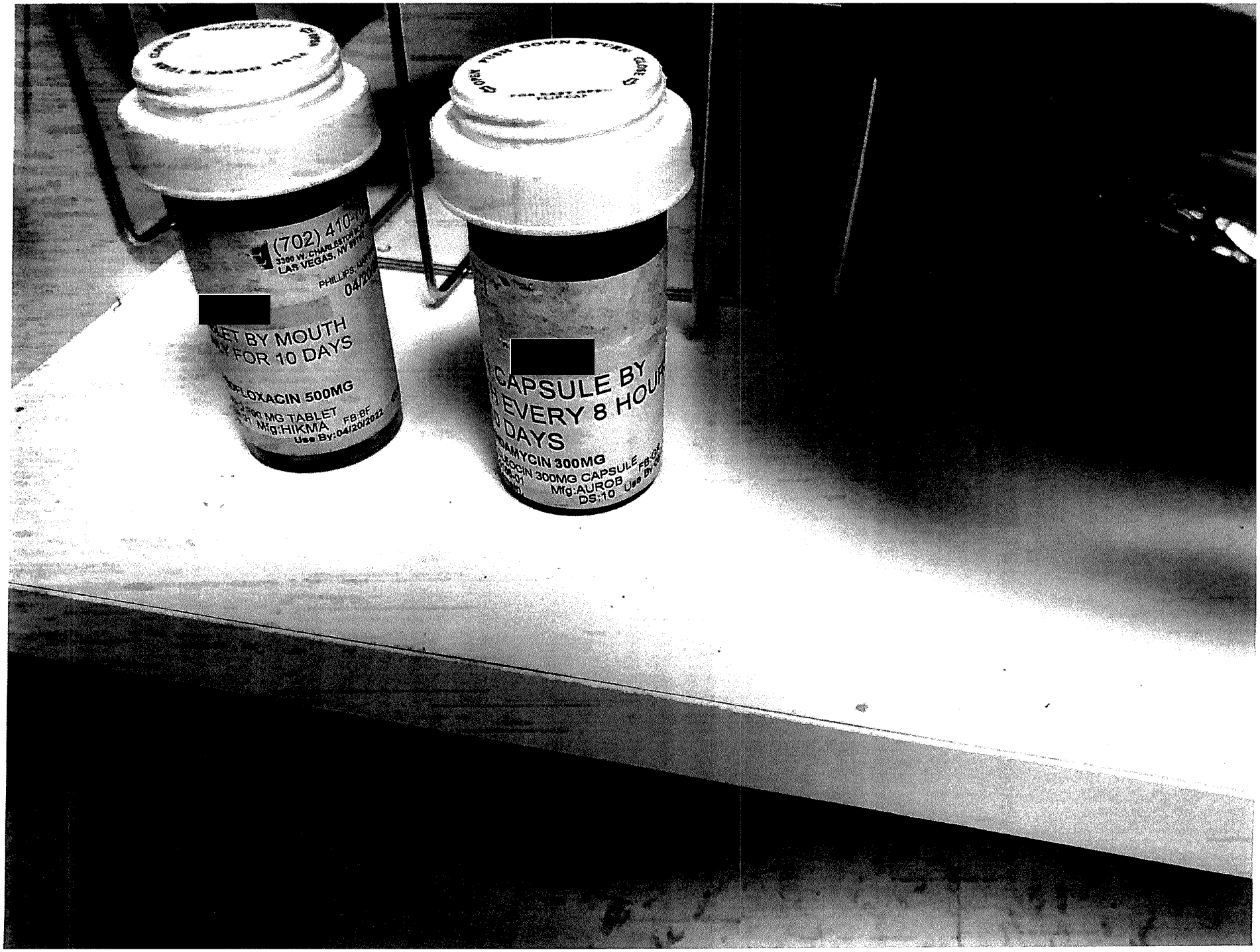


MEDICAL RECORDS

This exhibit contains personal medical information, records of a patient or other personal identifying information that is confidential and otherwise protected from disclosure to the public pursuant to NRS 622.310.




WELL CARE
PHARMACY
(702) 410-
3390 W. CHARLESTON
LAS VEGAS, NV
PHILLIPS
TAKE 1 CAPSULE BY MOUTH
EVERY 8 HOURS FOR 10
DAYS
30 Cap CLINDAMYCIN 300MG
Generic for: CLEOCIN 300MG CAPSULE
NDC 65862-0186-01 Mfg:AUROB
No Refills Remain.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LAS VEGAS, NV
PHILLIPS
04/20
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ET BY MOUTH
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FLOXACIN 500MG
MG TABLET
Mfg:HIKMA
Use By:04/20/2022
[redacted]
CAPSULE BY
EVERY 8 HOUR
DAYS
AMYCIN 300MG
300MG CAPSULE
Mfg:AUROB
DS:10

MFR # 87-50SG
DEFIBRILLATOR
HEARTSTART
DEFIBRILLATOR
WARNING
ALARMED SYSTEM

NSBME 041

EXHIBIT 9

EXHIBIT 9

NEVADA STATE BOARD OF PHARMACY

985 Damonte Ranch Parkway – Suite 206 • Reno, NV 89521

(775) 850-1440 • 1-800-364-2081 • FAX (775) 850-1444

• Web Page: bop.nv.gov

March 24, 2021

VIA CERTIFIED AND U.S. MAIL

MaryAnne Phillips, M.D.
10620 Southern Highlands Parkway, #110251
Las Vegas, NV 89102

MaryAnne Phillips, M.D.
6393 Coral Flower Court
Las Vegas, NV 89141

Re: CEASE and DESIST/CITATION: Unlicensed Practice (Case No. 20-210)

Dear Dr. Phillips:

The Nevada State Board of Pharmacy ("BOP") has determined that you are possessing, administering, prescribing and/or dispensing controlled substances and dangerous drugs for Nevada patients from your practice in violation of federal and state law. Specifically, your controlled substance registration was suspended. You are prohibited from possessing and/or administering controlled substances.

You have violated, attempted to violate, assisted or abetted in the violation of or conspired to violate, without limitation, NRS 453.226, NRS 453.316, NRS 453.321(1)(a), NRS 453.331 (1)(c)(d)(f)&(i), NRS 453.381(1), NRS 453.401(1)(a), NRS 639.100(1), NRS 639.23505, NRS 639.281, NRS 639.2813, NRS 639.310, 21 U.S.C. § 822(a)(2), 21 U.S.C. § 823(f), 21 U.S.C. § 841(a), 21 U.S.C. § 842(a), 21 U.S.C. § 846 and 21 CFR §§ 1306.03–1306.05.

You are hereby ordered pursuant to NRS 639.2895(1) to immediately CEASE and DESIST possessing, administering, prescribing and/or dispensing controlled substances for Nevada patients from your practice. This letter shall serve as a CITATION pursuant to NRS 639.2895(2) for your unlicensed practice. The Board has assessed you an administrative fine of five thousand dollars ($5,000.00) pursuant to NRS 639.2895(3).

You must pay this administrative fine within 30 days of receipt of this citation, or otherwise contact Board staff to request an alternative payment plan. Payment must be by *cashier's check*, *certified check* or *money order* made payable to "State of Nevada, Office of the Treasurer," to be received at the Board's Reno office, located at 985 Damonte Ranch Parkway – Suite 206, Reno, NV 89521.

You have the right to appeal this citation by submitting a written request for a hearing to the Board at the Board's Reno office no later than 30 days after receipt of this letter. *See* NRS 639.2895(2).

Please be aware that the foregoing does not preclude a formal investigation or filing of criminal charges. If you have any questions, please do not hesitate to contact me at 775-850-1440 or c.lee@pharmacy.nv.gov.

Sincerely,

Courtney K. Lee
General Counsel
Nevada State Board of Pharmacy

9171 9690 0935 0252 0542 78

9171 9690 0935 0252 0542 85

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 25th day of March, 2021, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

MaryAnne Phillips, M.D.
10620 Southern Highlands Parkway, #110251
Las Vegas, NV 89102

MaryAnne Phillips, M.D.
6393 Coral Flower Court
Las Vegas, NV 89141

KRISTOPHER MANGOSING

EXHIBIT 10

EXHIBIT 10

NEVADA STATE BOARD OF PHARMACY

985 Damonte Ranch Parkway – Suite 206 • Reno, NV 89521
(775) 850-1440 • 1-800-364-2081 • FAX (775) 850-1444
• Web Page: bop.nv.gov

March 24, 2021

VIA CERTIFIED AND U.S. MAIL

Vida Spa LLC
Ms. Gisselle Platfoot
3225 S. Rainbow Boulevard, Suite 107
Las Vegas, NV 89146

Re: ***CEASE and DESIST/CITATION: Unlicensed Practice (Case No. 20-210)***

Dear Ms. Platfoot:

The Nevada State Board of Pharmacy ("BOP") has determined that you are possessing, administering, prescribing and/or dispensing controlled substances and/or dangerous drugs for Nevada patients from your company in violation of federal and state law. Specifically, you do not have a dispensing registration. You are prohibited from possessing, dispensing and/or administering controlled substances and/or dangerous drugs.

You have violated, attempted to violate, assisted or abetted in the violation of or conspired to violate, without limitation, NRS 453.226, NRS 453.316, NRS 453.321(1)(a), NRS 453.331 (1)(c)(d)(f)&(i), NRS 453.381(1), NRS 453.401(l)(a), NRS 639.0727, NRS 639.100(1), NRS 639.23505, NRS 639.281, NRS 639.2813, NRS 639.310, NAC 639.742, 21 U.S.C. § 822(a)(2), 21 U.S.C. § 823(f), 21 U.S.C. § 841(a), 21 U.S.C. § 842(a), 21 U.S.C. § 846 and 21 CFR §§ 1306.03–1306.05.

You are hereby ordered pursuant to NRS 639.2895(1) to immediately CEASE and DESIST possessing, administering, prescribing and/or dispensing controlled substances for Nevada patients from your practice. This letter shall serve as a CITATION pursuant to NRS 639.2895(2) for your unlicensed practice. The Board has assessed you an administrative fine of five thousand dollars ($5,000.00) pursuant to NRS 639.2895(3).

You must pay this administrative fine within 30 days of receipt of this citation, or otherwise contact Board staff to request an alternative payment plan. Payment must be by *cashier's check, certified check* or *money order* made payable to "State of Nevada, Office of the Treasurer," to be received at the Board's Reno office, located at 985 Damonte Ranch Parkway – Suite 206, Reno, NV 89521.

You have the right to appeal this citation by submitting a written request for a hearing to the Board at the Board's Reno office no later than 30 days after receipt of this letter. *See* NRS 639.2895(2).

Please be aware that the foregoing does not preclude a formal investigation or filing of criminal charges. If you have any questions, please do not hesitate to contact me at 775-850-1440 or c.lee@pharmacy.nv.gov.

Sincerely,

Courtney K. Lee
General Counsel
Nevada State Board of Pharmacy

9171 9690 0935 0252 0543 15

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 25th day of March, 2021, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Vida Spa LLC
Ms. Gisselle Platfoot
3225 S. Rainbow Boulevard, Suite 107
Las Vegas, NV 89146

KRISTOPHER MANGOSING

EXHIBIT 11

EXHIBIT 11

MEDICAL RECORDS

This exhibit contains personal medical information, records of a patient or other personal identifying information that is confidential and otherwise protected from disclosure to the public pursuant to NRS 622.310.

EXHIBIT 12

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EXHIBIT 13

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EXHIBIT 14

EXHIBIT 14

EDATION, DEEP SEDATION, OR GENERAL ANESTHESIA ATTESTATION

est that I am in compliance with the reporting requirements of NRS 630.30665, to wit, that if I have performed a surgery dure in Nevada outside a "medical facility," as defined by NRS 449.0151, and if that surgery or procedure utilized conscious ion, deep sedation or general anesthesia, then I have submitted a report to the Board stating the number and type of surgeries procedure performed, and I am aware that failure to submit a report or filing false information in a report is grounds for disciplinary action under Nevada's Medical Practice Act.
(If you have performed no such surgeries, then your answer should be "YES.") ✓ Yes ____ No

Forms and instructions are located on the Board's website: http://medboard.nv.gov/Forms/In-Office_Surgery/

COMMUNICATIONS AFFIRMATION

I am willing to accept Board communications to me, to include service of process as defined under Nevada Revised Statute (NRS) 630.344, via electronic mail (more commonly known as e-mail). Further, should the electronic mail address provided below change for any reason, I agree to apprise the Board in writing of my new electronic mail address within 30 days after the change.

RECEIVED
JUN 05 2019
NEVADA STATE BOARD OF MEDICAL EXAMINERS

Printed Name of Licensee: Mary Anne Phillips

Signature of Licensee: M Phillips

Electronic Mail Address: maryannphillipsmd@outlook.com

CONTINUING EDUCATION

ALL CONTINUING MEDICAL EDUCATION MUST HAVE BEEN COMPLETED DURING THE PERIOD OF JULY 1, 2017 THROUGH JULY 1, 2019. Please place a check mark next to the statement that applies to you.

X I was initially licensed in Nevada prior to July 1, 2017 or during the first 6 months of the biennial period of registration (July 1, 2017 through December 31, 2017) and have completed a minimum of forty (40) hours of AMA Category 1 continuing medical education (CME), two (2) hours of which were in medical ethics or pain management and/or addiction care and twenty (20) hours of which were in my scope of practice or specialty. (At least 2 hours every 4 years must be on suicide detection, intervention and prevention.)

____ I was initially licensed in Nevada during the second 6 months of the biennial period of registration (January 1, 2018 through June 30, 2018) and have completed a minimum of thirty (30) hours of AMA Category 1 CME, two (2) hours of which were in medical ethics or pain management and/or addiction care and fifteen (15) hours of which were in my scope of practice or specialty. (At least 2 hours every 4 years must be on suicide detection, intervention and prevention.)

____ I was initially licensed in Nevada during the third 6 months of the biennial period of registration (July 1, 2018 through December 31, 2018) and have completed a minimum of twenty (20) hours of AMA Category 1 CME, two (2) hours of which were in medical ethics or pain management and/or addiction care and ten (10) hours of which were in my scope of practice or specialty. (At least 2 hours every 4 years must be on suicide detection, intervention and prevention.)

____ I was initially licensed in Nevada during the fourth 6 months of the biennial period of registration (January 1, 2019 through July 1, 2019) and completed a minimum of ten (10) hours of AMA Category 1 CME, two (2) hours of which were in medical ethics or pain management and/or addiction care and five (5) hours of which were in my scope of practice or specialty. (At least 2 hours every 4 years must be on suicide detection, intervention and prevention.)

____ I am exempt from submitting proof of completion of CME because I have completed a full year of residency or fellowship training during the biennial period of July 1, 2017 through June 30, 2019. **If you checked this statement, please attach a copy of proof of completion of your training.**

RENEWAL APPLICATION AFFIRMATION

BY SIGNING BELOW, I SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT I PERSONALLY ANSWERED ALL OF THE QUESTIONS IN THIS APPLICATION AND THAT THE ANSWERS I HAVE PROVIDED ARE TRUE AND CORRECT.

M Phillips — May 25, 2019

Signature (Stamp Unacceptable) — **Date**

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EXHIBIT 48

EXHIBIT 48

Steve Sisolak
Governor

Richard Whitley, MS
Director

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Division of Public and Behavioral Health

Helping people. It's who we are and what we do.

Lisa Sherych
Administrator

Ihsan Azzam, Ph.D., M.D.
Chief Medical Officer

HAND DELIVERY

July 2, 2021

Vida Spa
Dr. Maryanne Phillips
3225 S. Rainbow, Ste. 206
Las Vegas, NV 89146

OFFICIAL ORDER TO CEASE OPERATION WITHOUT A PERMIT

The Division of Public and Behavioral Health observed the operation of an unpermitted outpatient facility (OPF) at 3225 S. Rainbow, Ste. 206 in Las Vegas, NV 89146. During an investigation on 06/23/21, inspectors observed propofol bedside within the facility. Interview statements from patients and facility staff revealed surgeries were performed using sedation. A sedation log sheet and patient charts documented sedation was used for surgeries. The facility administered conscious sedation as defined under Nevada Revised Statute (NRS) 449.436 to patients prior to performing medical procedures and were operating as an outpatient facility defined under Nevada Administrative Code (NAC) 449.999417.

Pursuant to NRS 449.442, an office of a physician or a facility that provides health care, other than a medical facility, must obtain a permit before offering general anesthesia, conscious sedation or deep sedation. An office of physician or facility that provides health care is only exempt from obtaining a permit if the medication is administered only "to relieve the patient's anxiety or panic, and if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation." NRS 449.441.

You are ordered to immediately cease offering to patients a service of general anesthesia, conscious sedation or deep sedation.

If you choose not to continue operation as an OPF, please notify DPBH within fifteen days so we may update our records and notify the appropriate state and local agencies.

If you fail to comply with this notice, the Division of Public and Behavioral Health may seek civil penalties of up to $10,000 pursuant to NRS 449.210 and may refer this complaint to the local district attorney or Attorney General of the State of Nevada for further legal action.

Should you have any questions regarding this matter, you may contact Minou Nelson at 702-486-6515.

Sincerely,

Minou Nelson

Minou Nelson, Health Facilities Inspector III
For: Paul Shubert, Bureau Chief

Cc: Julie Slabaugh, Deputy Attorney General
Pierron E. Tackes, Deputy Attorney General

EXHIBIT 49

EXHIBIT 49

Steve Sisolak
Governor

Richard Whitley, MS
Director

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DIVISION OF PUBLIC AND BEHAVIORAL HEALTH

Helping people. It's who we are and what we do.

Lisa Sherych
Administrator

Ihsan Azzam,
Ph.D., M.D.
Chief Medical Officer

NOTICE OF DENIAL OF APPLICATION

July 2, 2021

HAND DELIVERED

Attention: Gisselle Platfoot
Vida Spa LLC
3225 S Rainbow Blvd. Ste 206
Las Vegas, NV 89146

YOU ARE HEREBY NOTIFIED that the DIVISION intends to deny your application for a permit to operate an Outpatient Facility, specifically, Vida Spa LLC, Permit # 10334, effective eleven working days after your receipt of this notice.

Statutory or Regulatory Authority
The Division is denying your application for a permit in accordance with Nevada Administrative Code (NAC) 449.999459 (1).

NAC 449.999459 authorizes the Division to deny an application for a permit upon any of the following grounds:

(1) Offering to a patient a service of general anesthesia, conscious sedation or deep sedation without a permit, if a permit is required pursuant to NRS 449.435 to NRS 449.448, inclusive, and NAC 449.99942.

Nevada Revised Statute (NRS) 449.160(1) also authorizes the Division to deny an application for a license, based on violation of NRS Chapter 449 and related regulations.

Facts Supporting the Denial
The Division, Bureau of Health Care Quality and Compliance (BHCQC) conducted an Unpermitted Outpatient Facility investigation on June 23, 2021. During the investigation, a Registered Nurse (RN) explained the Operating Room in the front of the office was not being utilized for surgery until the OPF Permit was obtained. The RN said there were no surgeries which required sedation at the facility.

The RN then verbalized they did use sedation for liposuction procedures. A patient was sitting in the recovery area and the RN explained the patent was waiting to have a liposuction procedure performed. They were waiting for a physician to arrive to perform the procedure.

In the procedure room, there was a tray beside the bed with an empty bottle of Propofol 200 mg and a full bottle of Propofol 200mg. (**Propofol** is a medication used in general anesthesia and for sedation). There were two unlabeled syringes with medications drawn. The RN verbalized one syringe had Propofol and one had Lidocaine. The RN explained prior to the physician's arrival to perform liposuction surgeries, Propofol and Lidocaine were pre-drawn into syringes. When the physician arrived, Propofol and Lidocaine were administered to patients through IVs per physician orders. The RN verbalized Propofol was used for all surgeries and verbalized the Propofol in the syringe was for the patient who was waiting in the recovery area.

There was a form entitled, "Sedation Log Sheet" on a clipboard. The RN verbalized this was the medication count for Propofol. The sheet had columns for dates, name of medications, # of vials, dosage, patient names, date of births, treatment, and employee's names.

The Sedation Log Sheet dated 04/13/2021 through 06/23/2021, documented the number of vials of Propofol left in the medication count on different days. There were patient's names, some had a dosage amount of Propofol used. All procedures were Brazilian Butt Lifts (BBL) or Liposuction 360 listed as the treatments. On 06/22/2021, the second to last entry showed 14 bottles of Propofol left. The 06/23/2021 amount of Propofol left was blank.

On 06/23/2021 at 10:50 AM, the RN could not explain where the 14 bottles of Propofol were. There were the two bottles on the bedside table, so there should have been 12 left over. The RN explained the physician was in charge of the Propofol.

On 06/23/2021 at 11:15 AM, the office manager, explained the Propofol that was in the surgery room was left over from a previous surgery. A local pharmacy and a compound pharmacy would deliver Propofol to the facility once a week. The Office Manager could not verbalize where all the Propofol was and verbalized it must have been used on previous surgeries.

The Sedation Log sheet documented on 06/23/2021, the patient who was waiting in the recovery area for the physician to perform the procedure, was to get Propofol for the surgery, Liposuction 360. The RN verbalized the initials on the log sheet were this RN's initials.

The following patients were listed on the Sedation Log Sheet on 06/23/2021. The documentation on the Sedation Log list indicated the patients had received Propofol with surgery. Review of the patient's charts lacked documented evidence Propofol or Versed were used in these surgeries.

Patient #7 (P7), Date of Service (DOS): 06/16/2021

Patient #8 (P8), DOS: 06/21/2021

Patient #9 (P9), DOS: 06/21/2021

Patient #10 (P10), DOS: 06/22/2021

Patient #11 (P11), DOS: 06/12/2021

Patient #12 (P12), DOS: 05/20/2021

Patient #13 (P13), DOS:06/11/2021

On 06/23/2021 at 11:00 AM, the owner of the facility, denied that Propofol was used for surgeries and explained they only used Lidocaine. When asked why there was Propofol by the bedside prepped for surgery, the owner explained Propofol was used for emergencies and verbalized the physician employed by the facility was in charge of all surgeries and was unaware of what the physician was doing.

Review of five patient's medical records with dates of service ranging from June 2020 through February 2021 revealed documentation the five patients had received one or two sedating medications. The sedating medications included:

Midazolam 5 mg/hour IV

Propofol intravenous (IV) infusion at 40 cc/hour

Propofol IV infusion 40 milligram/hour

Nevada Revised Statutes 449.170(2) affords the facility the right to contest the action of the Health Division. If you wish to oppose this action, you must send a written appeal to Lisa Sherych, Division Administrator, 4150 Technology Way, Suite 300, Carson City, Nevada 89706. You can fax your written appeal to (775) 687-7570.

In order for you to receive a hearing, the Administrator must receive this written appeal by 5:00 pm on the 10th working day after you have received this notice. The local Health Care Quality and Compliance office cannot accept your appeal. Your written appeal must include the following information: a) the action to be contested, b) the name of the division officer or employee who signed this notice, c) the reasons that the appellant believes the action is incorrect, and d) whether or not the appellant is seeking an informal internal resolution prior to the formal appeal process.

You are entitled to be represented by counsel at your own expense in these proceedings. If you retain an attorney, your counsel must notify the Administrator of his or her representation of you.

Effective Date of Action

If you submit a timely request for appeal, the effective date of the action will be stayed, pending the hearing on appeal. If you do not request a hearing within the next ten working days, you will waive your rights to a hearing and the action will be imposed as of the 11th working day after you receive this notice. NAC 439.348 indicates that except as otherwise provided in NAC 449.99908 the effective date of the disciplinary action is stayed upon receipt of an appeal until the hearing officer renders a decision regarding the appeal.

If you have any questions about this notice or the contents therein, please call the supervisor indicated below. Please dial based on your facility's location, Southern Nevada (702)486-6515 or Northern Nevada (775)684-1030.

Sincerely,

Dorothy Sims, RN

FOR Pat Elkins, RN, Health Facility Inspection Manager

For Paul Shubert, Bureau Chief

Cc: Lisa Sherych, Administrator
Margot Chappel, Deputy Administrator

EXHIBIT 50

EXHIBIT 50

Department of Business License

VINCENT V. QUEANO
DIRECTOR

500 SOUTH GRAND CENTRAL PKY, 3RD FLOOR
BOX 551810
LAS VEGAS, NEVADA 89155-1810
(702) 455-4252
(800) 328-4813
FAX (702) 386-2168

July 29, 2021

NOTICE OF TEMPORARY SUSPENSION AND SHOW CAUSE HEARING – SUSPENSION, REVOCATION, OR NON-RENEWAL OF A BUSINESS LICENSE

Gisselle Platfoot
Vida Spa LLC
Ste 206
3225 S Rainbow Blvd
Las Vegas, NV 89146

Re: Business License Number: **2003447.081.172**

Dear Licensee:

This letter is to inform you that your business license is TEMPORARILY SUSPENDED, and you are required to appear before a Hearing Officer to SHOW CAUSE why the above referenced license(s) shall not be suspended, revoked or non-renewed.

AREAS OF CONCERN:

- On March 24, 2021, the Nevada State Board of Pharmacy (BOP) issued Vida Spa LLC a cease and desist/citation letter as the BOP determined that the business was possessing, administering, prescribing and/or dispensing controlled substances and/or dangerous drugs in violation of federal and state law.
- On July 2, 2021, Vida Spa was issued an official order to cease and desist operation without a permit from the Division of Public and Behavioral Health (DPBH). The DPBH observed the operation of an unpermitted outpatient facility at your business location. The order stated the business is to immediately cease offering to patients a service of general anesthesia, conscious sedation or deep sedation. This location does not hold a Clark County Business License (CCBL) to offer these services.
- On June 28, 2021, the Investigative Committee (IC) of the Nevada State Board of Medical Examiners issued notice to immediately summarily suspend the license of Maryanne D. Phillips, M.D. The complaint filed by the Board on July 20, 2021 states that the business violated federal and state laws regarding controlled substances. The complaint also states that more than 70 invasive surgeries and injection procedures were performed at the business in violation of NRS 630.373. Further, the complaint states that propofol was administered as anesthesia and then the records were falsified in an effort to conceal her illegal conduct.
- On July 20, 2021, the Investigative Committee (IC) of the Nevada State Board of Medical Examiners issued notice to immediately summarily suspend the license of Tammy Lynn Hankins, PA-C. The complaint filed by the Board on June 25, 2021 states that the business violated federal and state laws regarding controlled substances. The complaint also states that invasive surgeries and injection procedures were performed at the business without the proper state and local licenses and without the required supervision of a licensed physician. Further, the complaint states that anesthesia was applied to patients at the business without a patient-specific prescription or an order from a licensed physician.
- The business also offered massage without a CCBL.

Your appearance before the Hearing Officer is required on:

Date and Time: August 26, 20021 at 1:00pm

Location: WebEx video conference meeting pursuant to COVID-19 safety protocols. Login credentials will be provided via email prior to the hearing.

Please contact Angie Arellano at (702) 455-6295 to confirm your attendance.

Pursuant to Clark County Code Chapters 6.04 and 8.08, the Director may cite any licensee to appear before a Hearing Officer to show cause why the license of any licensee shall not be suspended, revoked or non-renewed. The Director also has authority to issue an immediate suspension of a license pending the hearing for the immediate preservation of the public peace, health, safety, morals, good order, or public welfare. Failure to appear shall be deemed an admission of the acts charged in this letter and may result in a misdemeanor citation. **All exhibits must be submitted at least five (5) working days prior to the hearing by e-mail to Angie Arellano at ArellaA@ClarkCountyNV.gov or by fax at (702) 678-5219.** All exhibits will be circulated to the Hearing Officer, parties, and witnesses in advance of the hearing.

The hearing officer may revoke, restrict, suspend, or condition the license. The Hearing Officer may also refer matters back to staff and/or take other action, as deemed appropriate. The hearing is subject to the presumptions and procedures set forth in Clark County Code Chapter 8.08. Any person aggrieved by a decision of the hearing officer may file or cause to be filed a petition for judicial review of the hearing officer's decision in the District Court, as provided by the Nevada Revised Statutes Chapter 34.

If you desire a transcript of the proceedings, it is your responsibility to provide a certified court reporter to transcribe the proceedings of the hearing at your own expense. You must file certified transcript with the department. The transcript will become a part of record of proceedings. Attendance by a court reporter must be confirmed with Angie Arellano at least five (5) working days prior to the hearing.

We wish to further advise you that conducting any business activity without proper licensure may result in enforcement action by our department as outlined in Clark County Code 6.04.140.

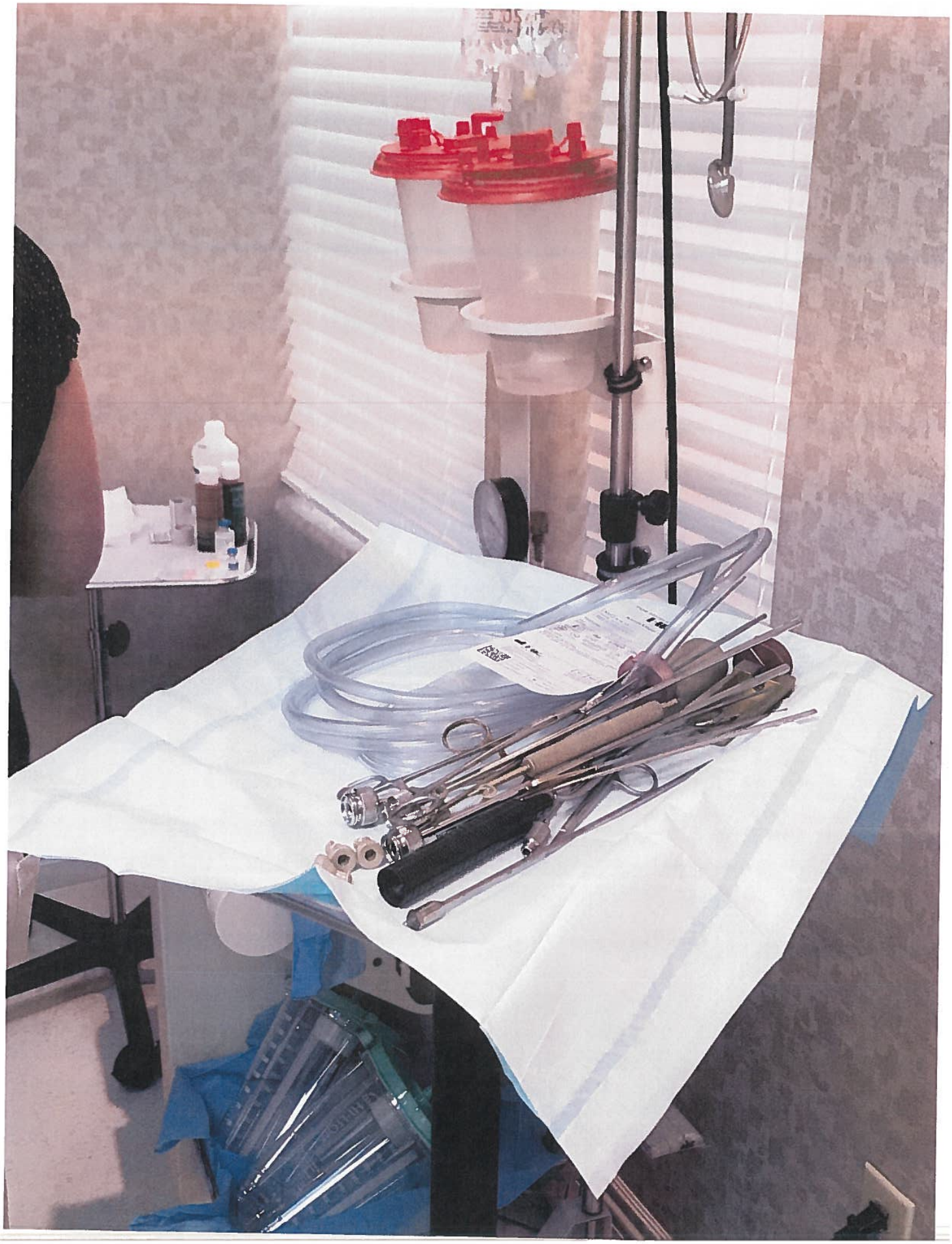
Sincerely,

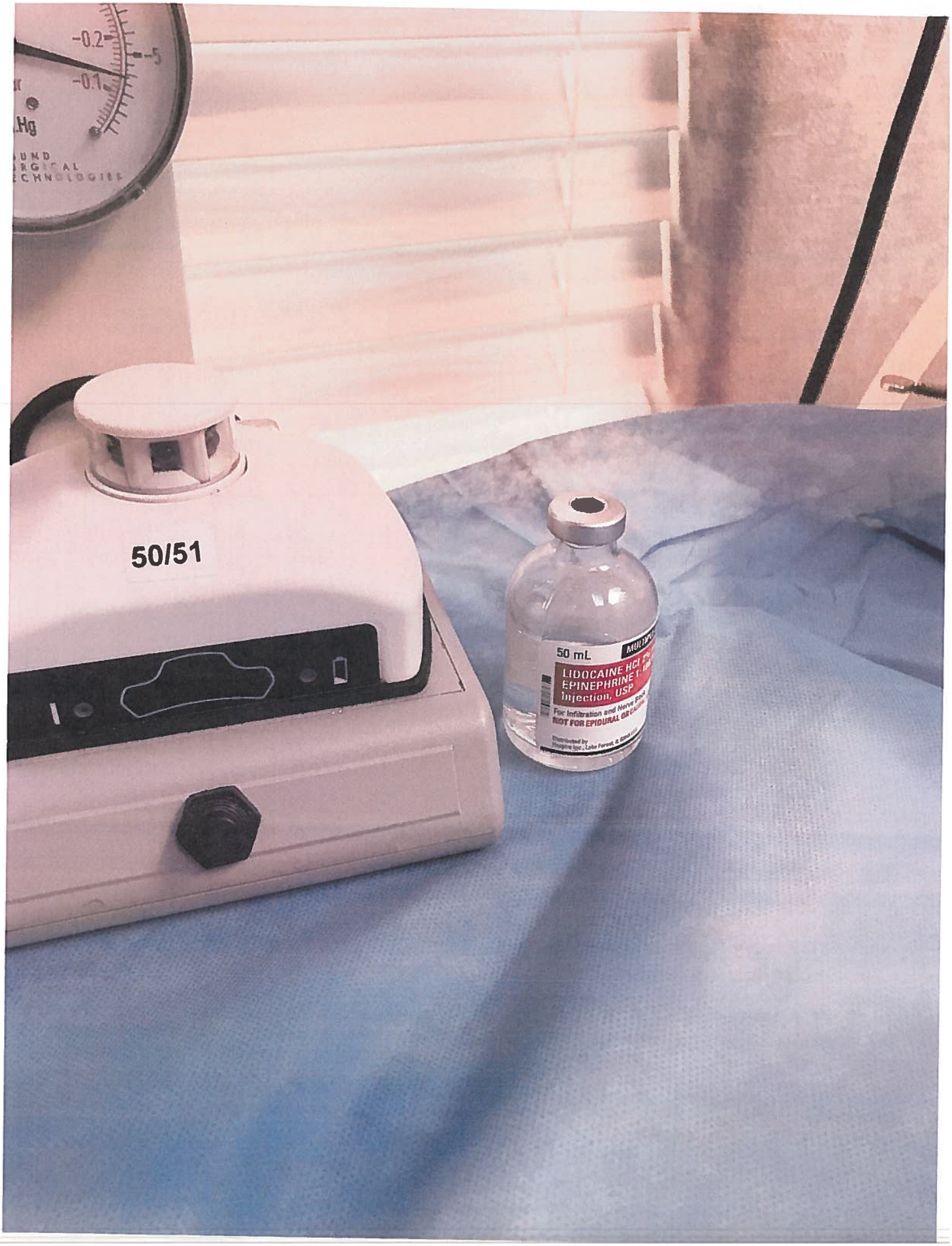
Vincent V. Queano
Director

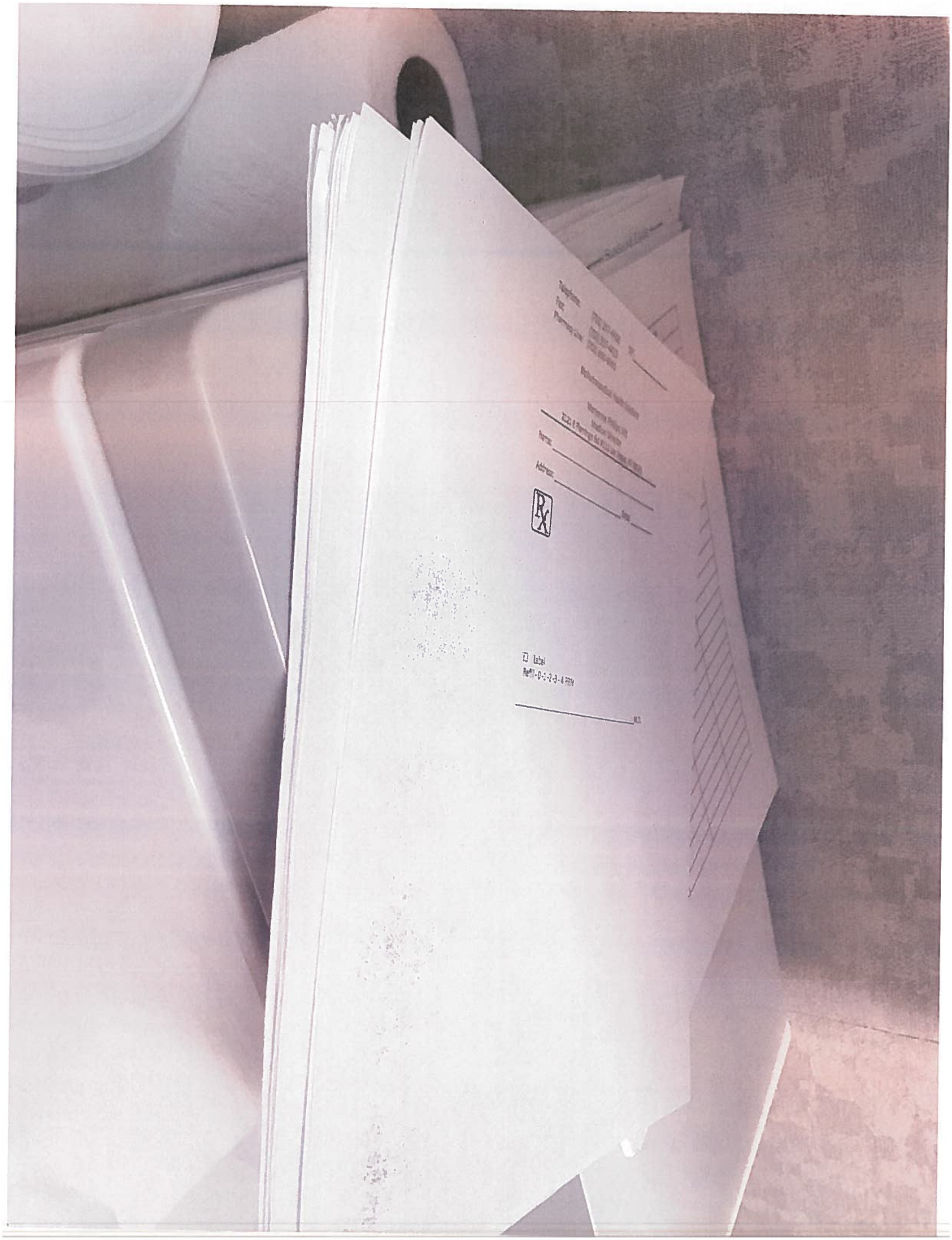
EXHIBIT 51

EXHIBIT 51

Photo Evidence Obtained at Vida Spa 06/23/2021




-0.2
-5
-0.1
50/51
50 mL
LIDOCAINE HCl
EPINEPHRINE
Injection, USP



Telephone: (702) 357-4406 NPI _____
Fax: (702) 357-4415
Pharmacy Line: (702) 860-8965

BioNutraceutical Health Solutions

Maryanne Phillips, MD
Medical Director
2121 E Flamingo Rd #112 Las Vegas, NV 89191

Name: _____

Address: _____ Date: _____

Rx

☐ Label
Refill - 0 -1 -2 -3 - 4 PRN

_____ M.D.

MEDICAL RECORDS

This exhibit contains personal medical information, records of a patient or other personal identifying information that is confidential and otherwise protected from disclosure to the public pursuant to NRS 622.310.

DEPARTMENT OF HEALTH AND HUMAN
CENTERS FOR MEDICARE & MEDICAI

Facility Name: _____

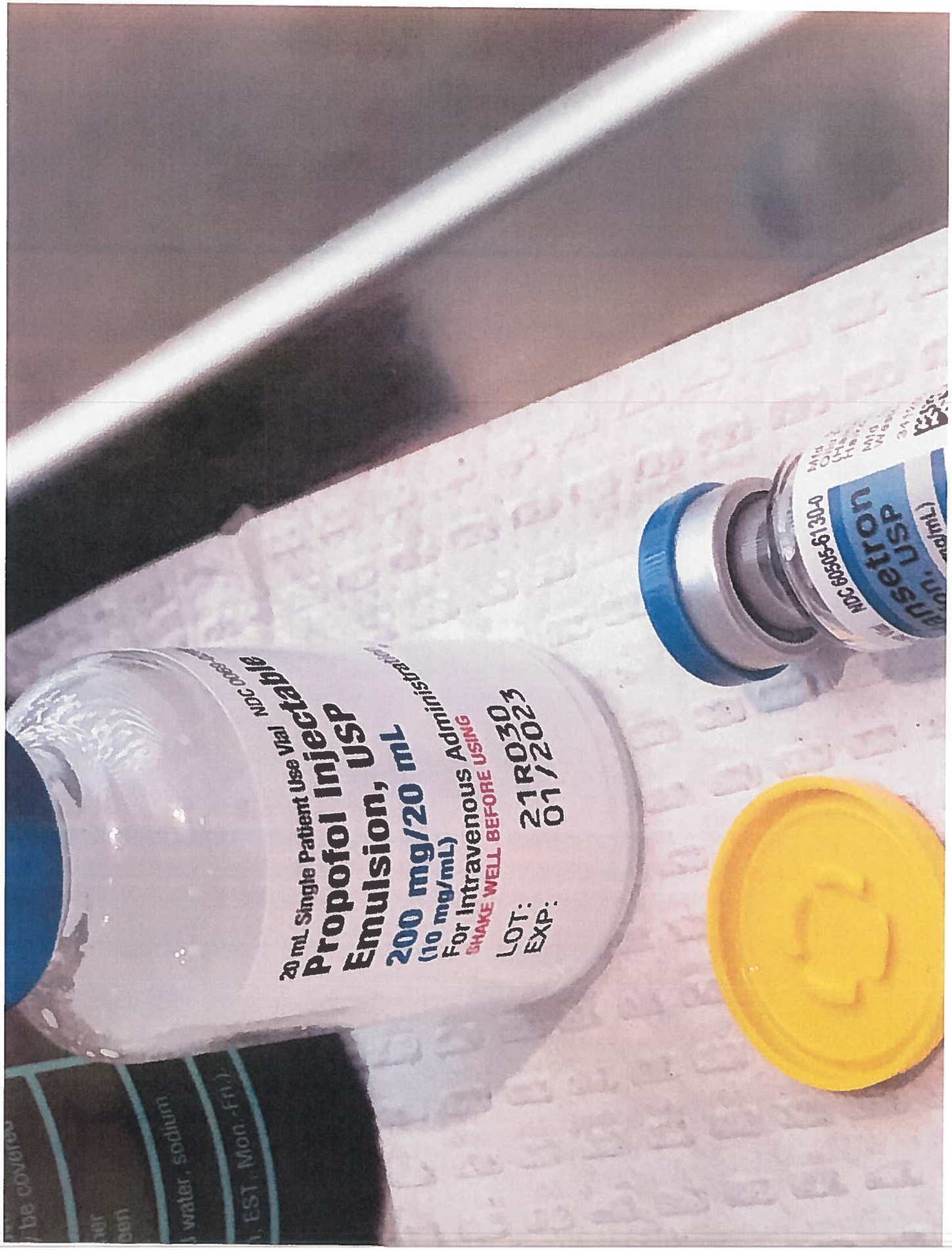
Provider Number: _____

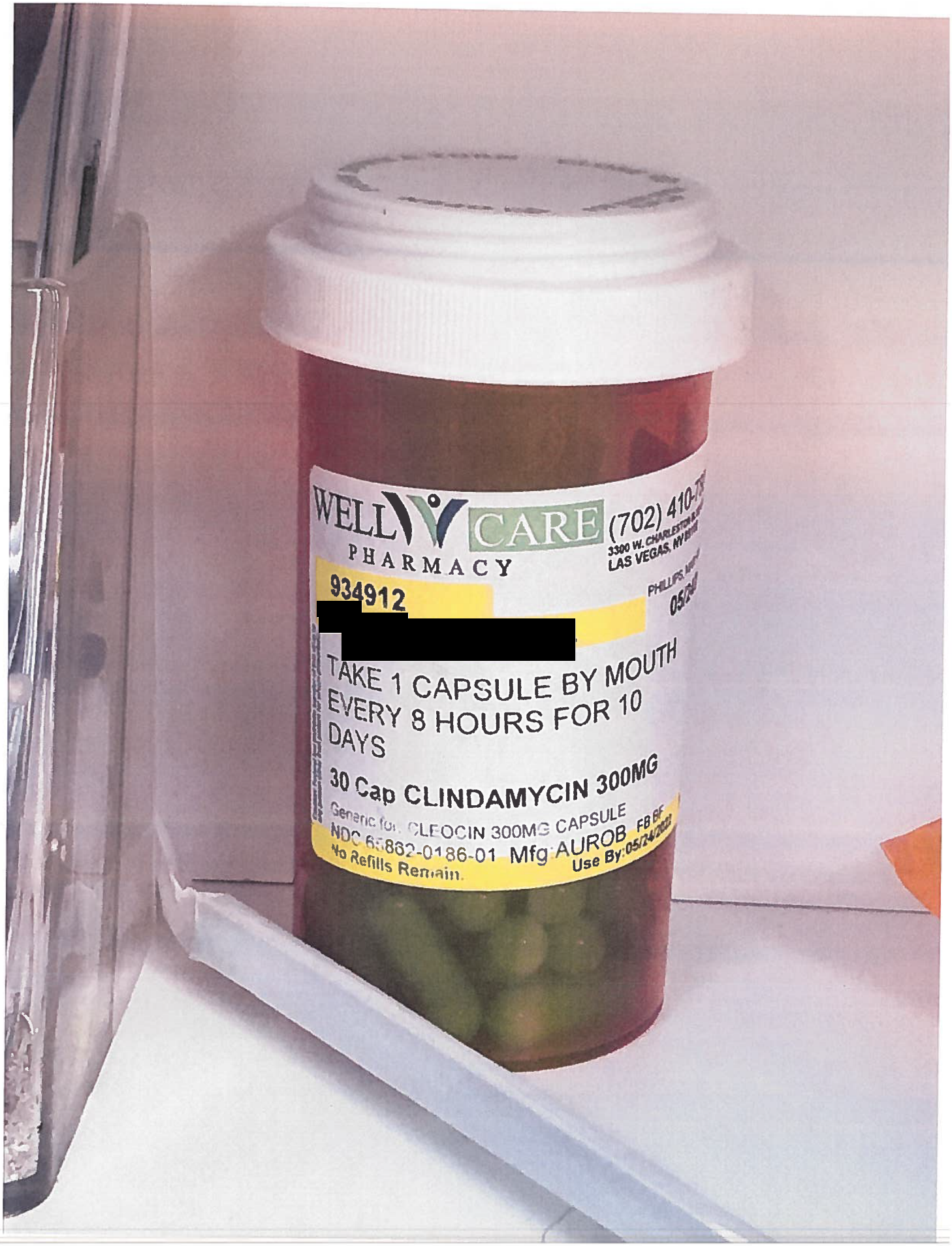
Observation Dates: From _____

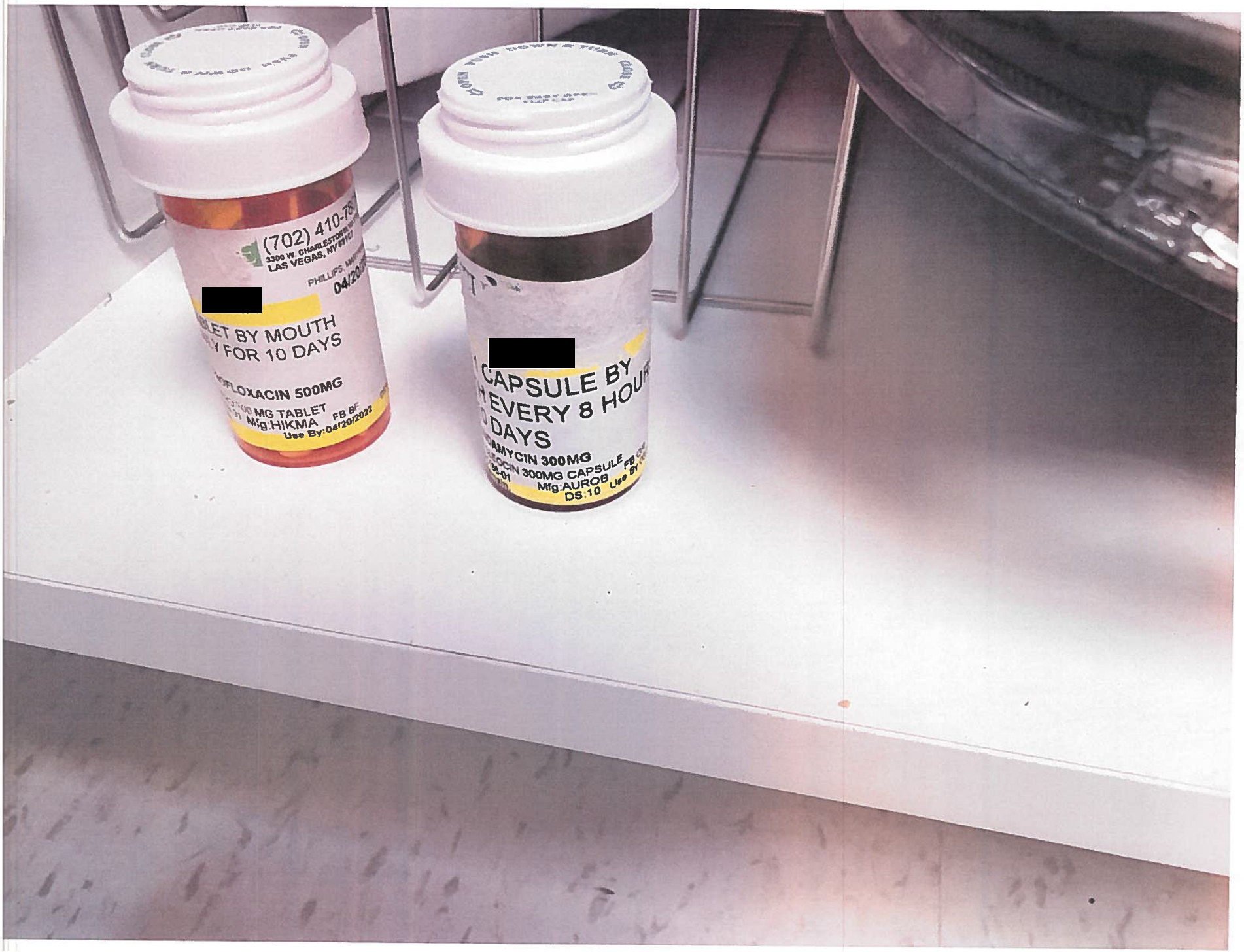
Surveyor Number: _____

TAG/CONCERNS

Rx only
NDC 0409-3182-03
Contains 25 of NDC 0409-3182-31
nd Epinephrine
USP
contents are used. Do not autoclave.
Nerve Block.
OR CAUDAL USE.
Ph. 702-474-0268
Fax: 702-474-0274
Dr. PHILLIPS, MARY ANNE
50,000 UNIT/10 ML VIA 20
xone for
n, USP
Vials
Use First
0.25%
125 mg
Ondans
4 mg
For Intramuscula
Sterile
R Only
25x2 mL Single-use
Ondans
4 mg
For Intramuscular
Sterile
R Only
Lidocaine
CI Injection, USP

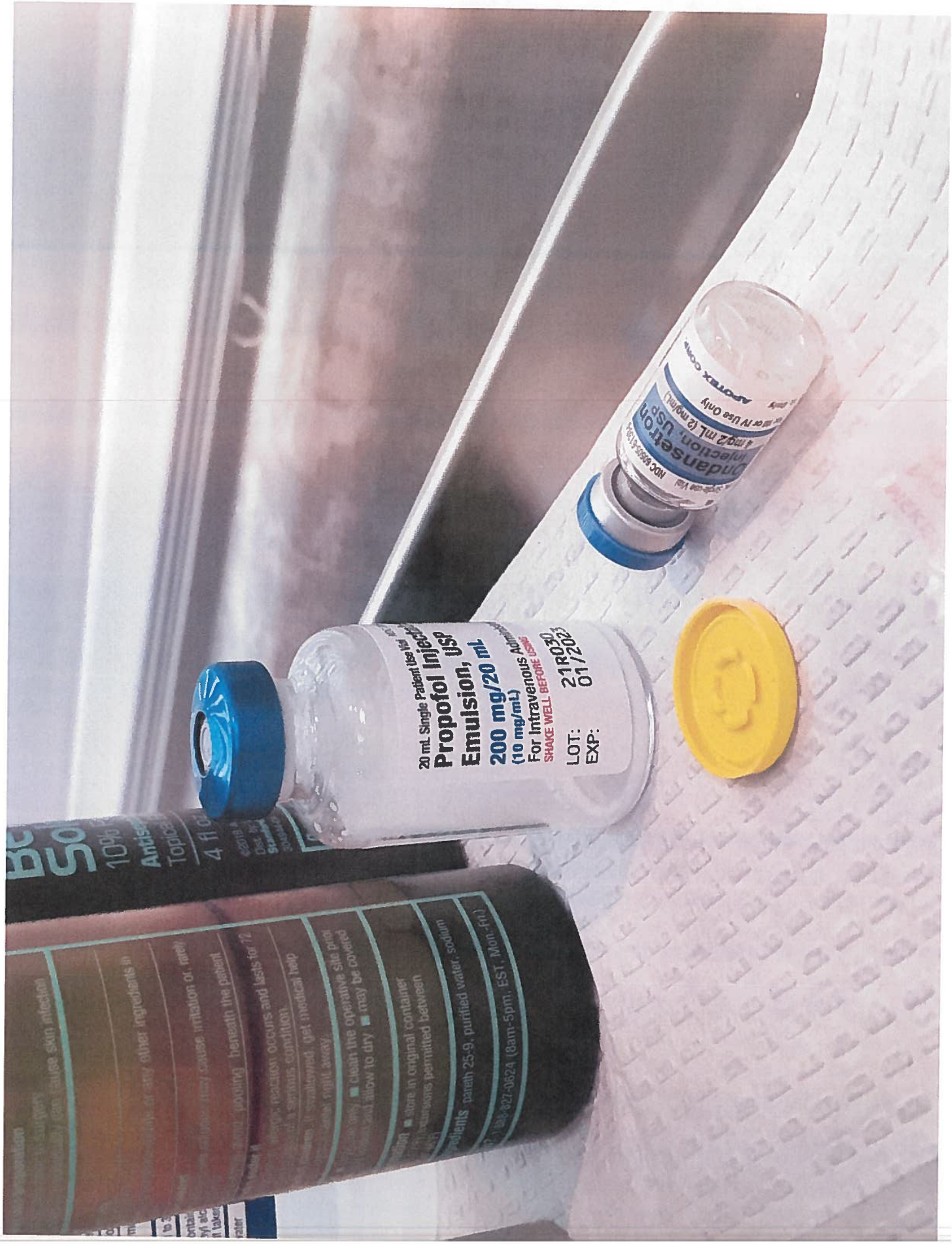

20 mL Single Patient Use Vial
Propofol Injectable
Emulsion, USP
200 mg/20 mL
(10 mg/mL)
For Intravenous Administration
SHAKE WELL BEFORE USING
LOT: 21R030
EXP: 01/2023
NDC 60505-6130-0
water, sodium
EST, Mon.-Fri.)

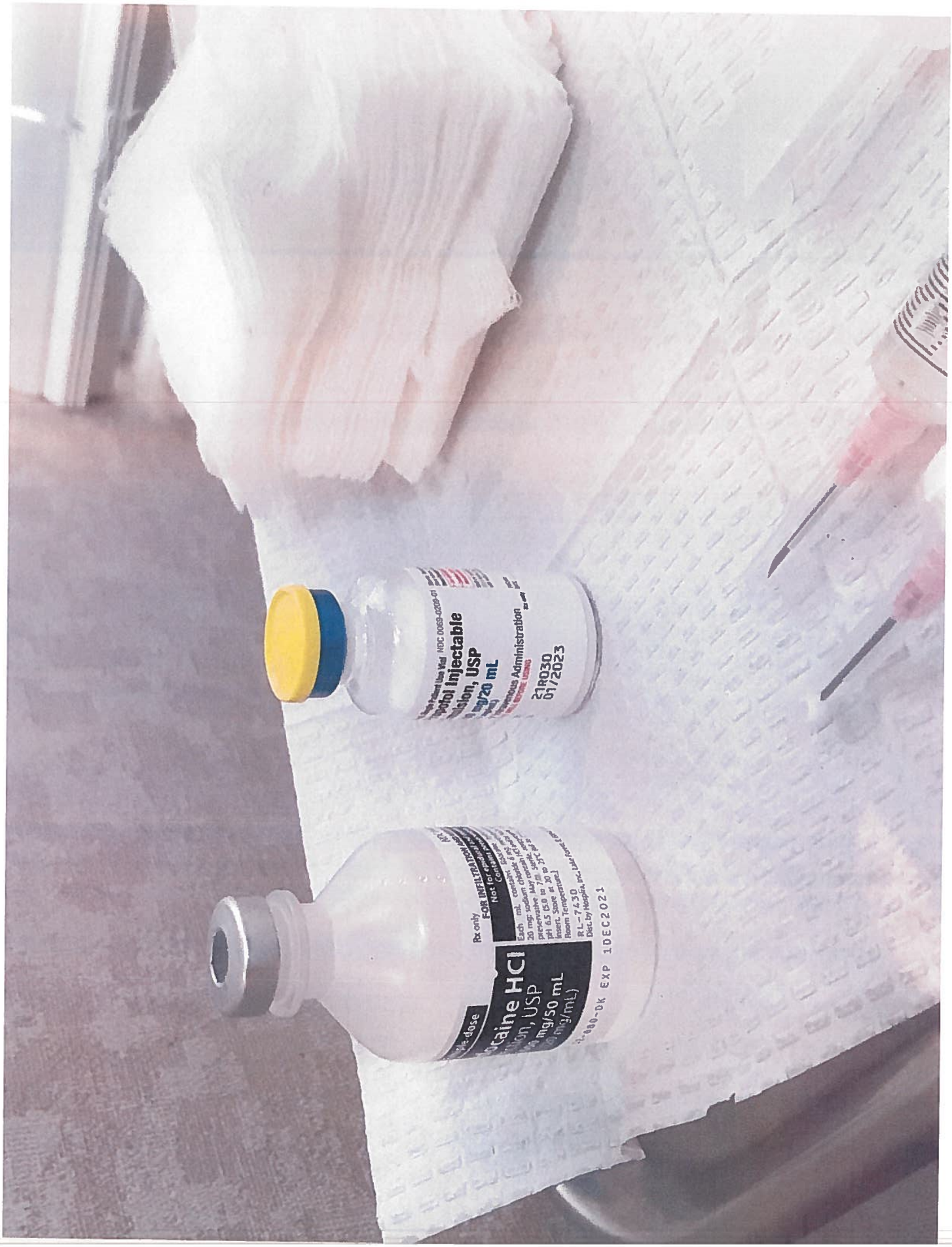

WELL CARE
PHARMACY
934912
TAKE 1 CAPSULE BY MOUTH EVERY 8 HOURS FOR 10 DAYS
30 Cap CLINDAMYCIN 300MG
Generic for: CLEOCIN 300MG CAPSULE
NDC 65862-0186-01 Mfg: AUROB
No Refills Remain.


(702) 410-78
3300 W. CHARLESTON
LAS VEGAS, NV
PHILLIPS
04/20
[redacted]
LET BY MOUTH
FOR 10 DAYS
FLOXACIN 500MG
MG TABLET
Mfg:HIKMA
FB 8F
Use By:04/20/2022
[redacted]
CAPSULE BY
EVERY 8 HOUR
DAYS
AMYCIN 300MG
CIN 300MG CAPSULE
Mfg:AUROB
DS:10

DO NOT REUSE
MFR # 87-50SG
DEFIBRILLATOR
HEARTSTART
DEFIBRILLATOR
PHILIPS
WARNING
ALARMED SYSTEM
16-4242

NSBME 1112


20 mL Single Patient Use Vial
Propofol Injection
Emulsion, USP
200 mg/20 mL
(10 mg/mL)
For Intravenous Administration
SHAKE WELL BEFORE USING
LOT: 21R030
EXP: 01/2023
Ondansetron
Injection, USP
4 mg/2 mL (2 mg/mL)
APOTEX CORP.
10%
Antise
Topical
4 fl oz
clean the operative site prior
allow to dry
may be covered
store in original container
permitted between
pareth 25-9, purified water, sodium
827-0624 (8am-5pm, EST, Mon.-Fri.)


Injectable
USP
Administration
21R030
01/2023
Rx only
FOR INFILTRATION
Each mL contains
20 mg; sodium chloride
preservative
pH 6.5 (5.0 to 7.0)
insert. Store at 20 to 25°C
Room Temperature.)
RL-7430
Dist. by Hospira, Inc.
EXP 1DEC2021

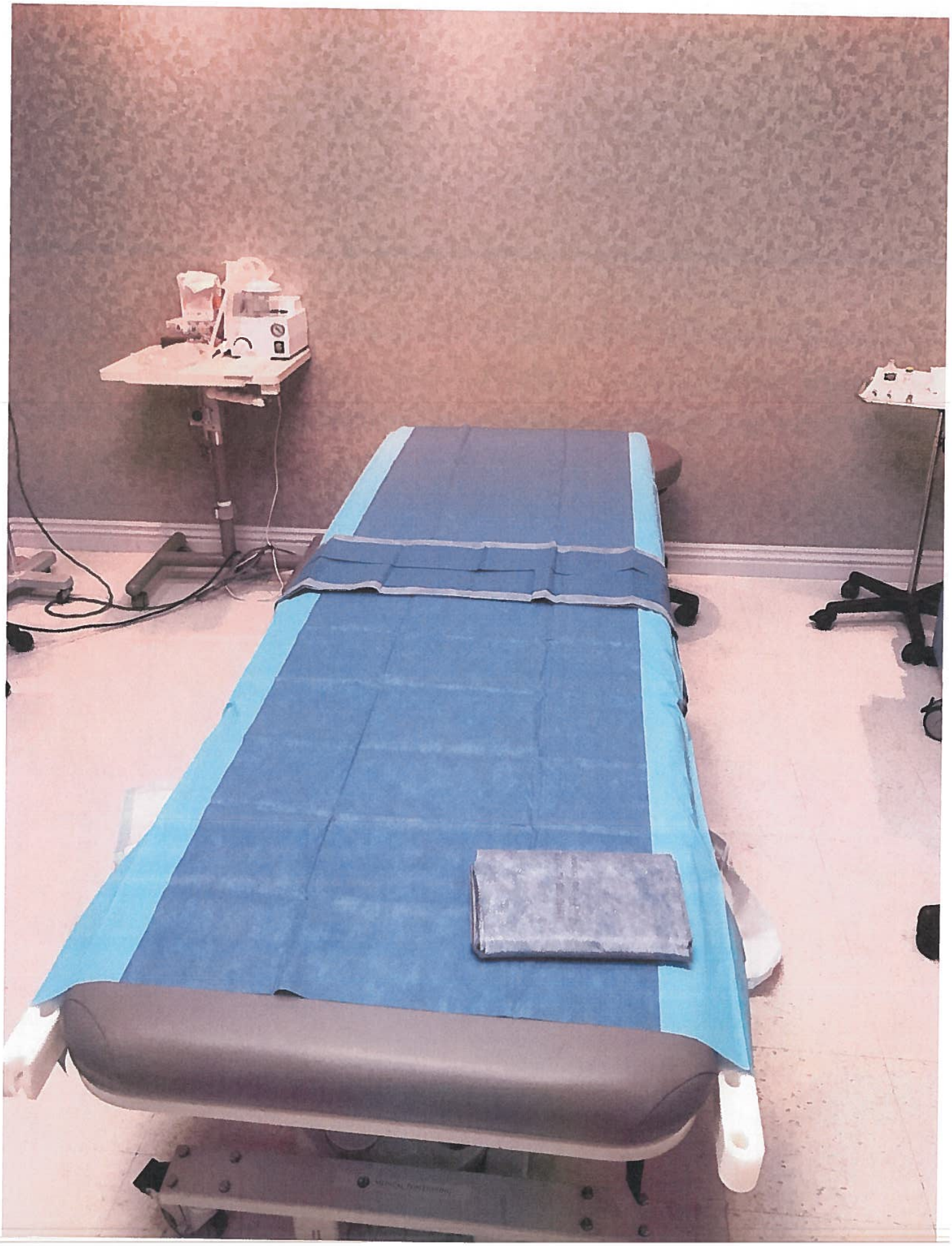
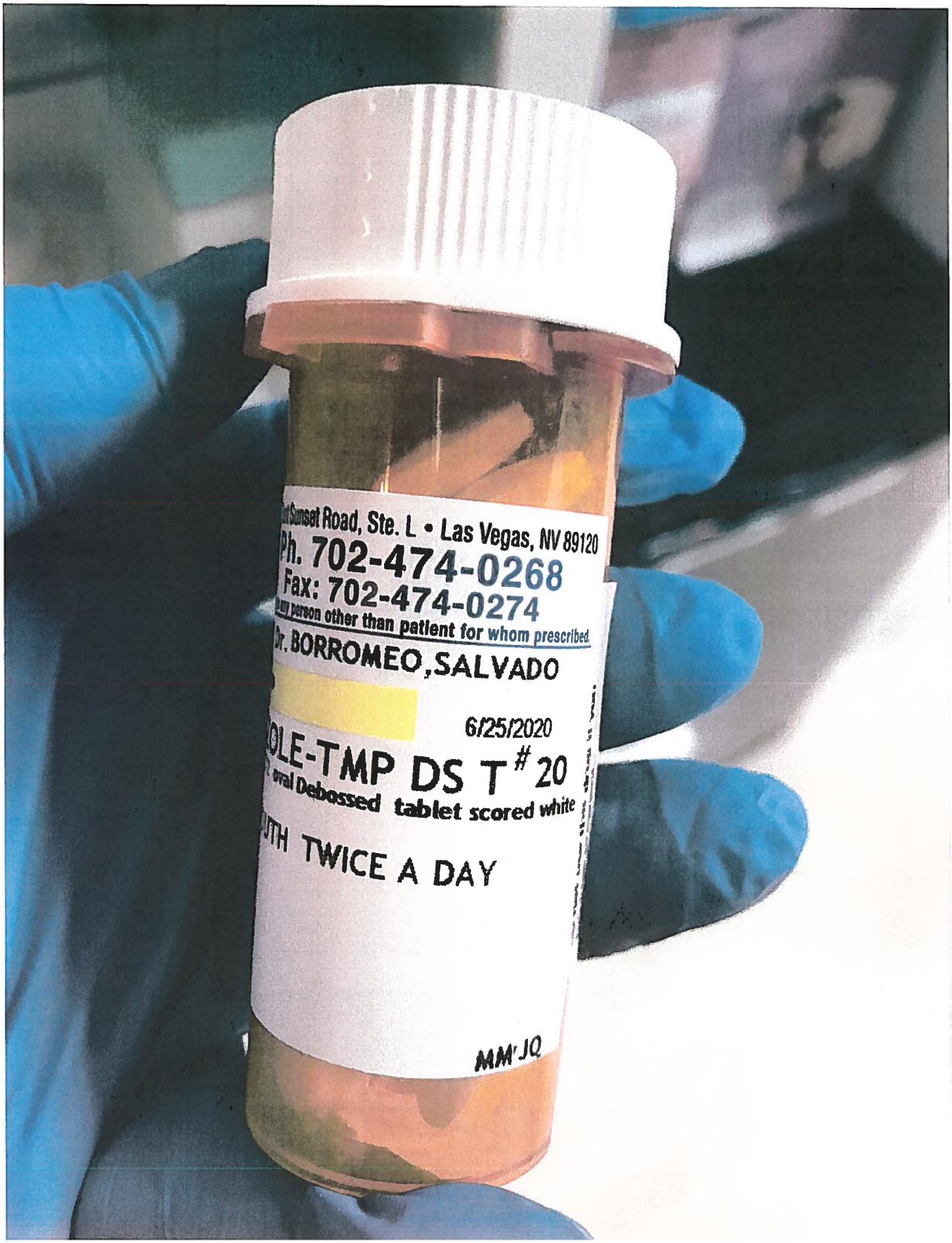


EXHIBIT 52

EXHIBIT 52

Photo Evidence Obtained at Vida Spa 10/27/2020

Santa Maria
PHARMACY
CAUTION: Federal law prohibits transfer of this
RX: 65835
N
[redacted]
SULFAMETHOXA
AMNEAL PHARMACE
TAKE 1 TABLET BY
Gen: P CTRIM DS
REF: 0


Sunset Road, Ste. L • Las Vegas, NV 89120
Ph. 702-474-0268
Fax: 702-474-0274
any person other than patient for whom prescribed
Dr. BORROMEO,SALVADO
6/25/2020
OLE-TMP DS T # 20
oval Debossed tablet scored white
UTH TWICE A DAY
MM JQ

Santa Maria PHARMACY

3827 East S[illegible]t Road, Ste. L • Las Vegas, NV 89120
702-474-0268
[illegible]ax: 702-474-0274

THIS IS YOUR RECEIPT. PLEASE RETA[illegible] FOR YOUR TAX OR INSURANCE.

RX: 71021 Dr. PHILLIPS, MARY ANN 10/12/2020

[redacted]

ORG: 10/12/2020

2324 WESTER ST #3 NORTH LAS VEGAS NV 89030

DOB: [redacted]

(702) 202-3050

CoPay:$ 5.00

71021-

FREE DELIVERY - ENTREGAS GRATIS

Health Mart PHARMACY

Santa Maria PHARMACY

3827 E[illegible] Road, Ste. L • Las Vegas, NV 89120

702-474-0268

F[illegible]: 702-474-0274

THIS IS YOUR RECEIPT. PLEASE RETAIN FOR YOUR TAX OR INSURANCE.

RX: 71011 Dr.PHILLIPS, MARY ANN 10/12/2020

ORG: 10/12/2020

[redacted]

3125 N BUFFALO DR LAS VEGAS NV 89128 DOB: [redacted]

CoPay:$ 30.00

(702) 202-3050

71011-

FREE DELIVERY - ENTREGAS GRATIS

HealthMart PHARMACY

Road Ste. L • Las Vegas, NV 89120
0268

Santa Maria Pharmacy
3827 E. Sunset Road, Unit L
Las Vegas, NV 89120
Phone : (702) 474-0268
Fax : (702) 474-0274

Deliv

Rx Deliver
10/15/2020

RX #	Pat.Name	RxDate	Drg Na
1: 71153	[redacted]	10/15/2020	MO
2: 71156		10/15/2020	IBU
3: 71158		10/15/2020	CI
4: 71155		10/15/2020	CI

Patient/Caregiver/Relation Name _____ () Self () Car

Signature X_____

Driver:JM/GG x____

Comments/Notes :

Road, Ste. L • Las Vegas, NV 89120
0268

Maria Pharmacy
unset Road, Unit L
s, NV 89120
702) 474-0268
2) 474-0274

Delivered To:

7040 CAREDO ST
LAS VEGAS NV 89117
(702) 488-2838
SPA

Rx Delivery Receipt

10/15/2020 12:06:18 PM

Pat.Name	RxDate	Drg Name	Qty	Pkg
[redacted]	10/15/2020	MOXIFLOXACIN HCL 400 MG TABLET	10	1
	10/15/2020	IBUPROFEN 800 MG TABLET	30	1
	10/15/2020	CIPROFLOXACIN HCL 500 MG TAB	20	1
	10/15/2020	CLINDAMYCIN HCL 300 MG CAPSULE	30	1

Caregiver/Relation Name _____ () Self () Caregiver () Parent () Sibiling () Child () Others_____

e X_____ Date / Time _____

/GG x____

s/Notes :

PHARMA

THIS IS YOUR RECEIPT. PLEASE RETA... YOUR TAX OR INSUR

RX: 69649

Dr. PHILLIPS, MARY ANN

[redacted]

10/15/20

ORG: 9/16/202

32250S RAINBOW BLVD #206 NORTH LAS VEGAS NV 89031

(702) 371-6571

DOB: [redacted]

CoPay:$

FREE DELIVERY - ENTREGAS GRATIS

*69649

Health Mar

PHARMACY

10/20/2020

Individual Details

Santa Maria Pharmacy
3827 E. Sunset Road, Unit L
Las Vegas, NV 89120
Phone : (702) 474-0268
Fax : (702) 474-0274

Delive

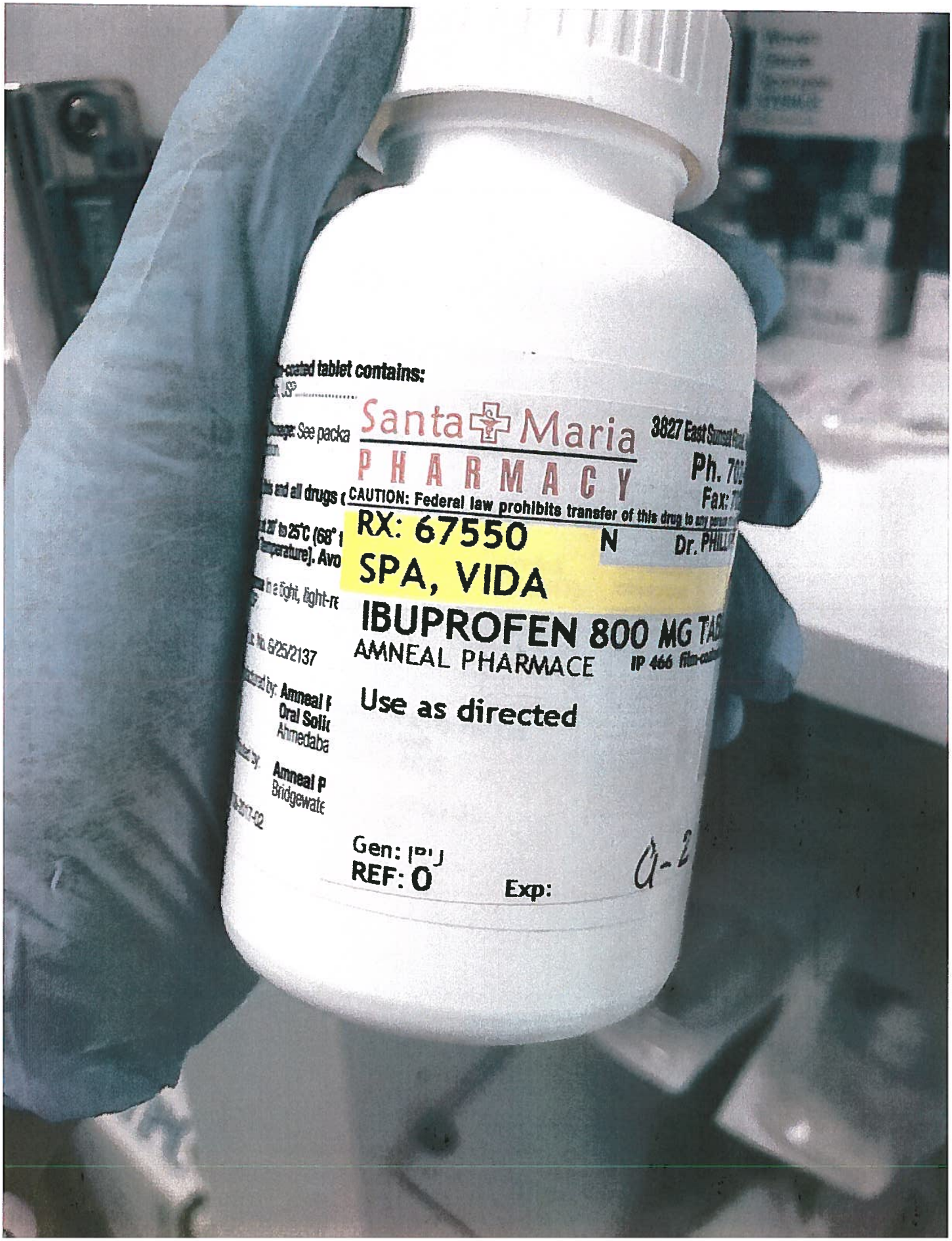
Rx Deliver
10/16/2020 10

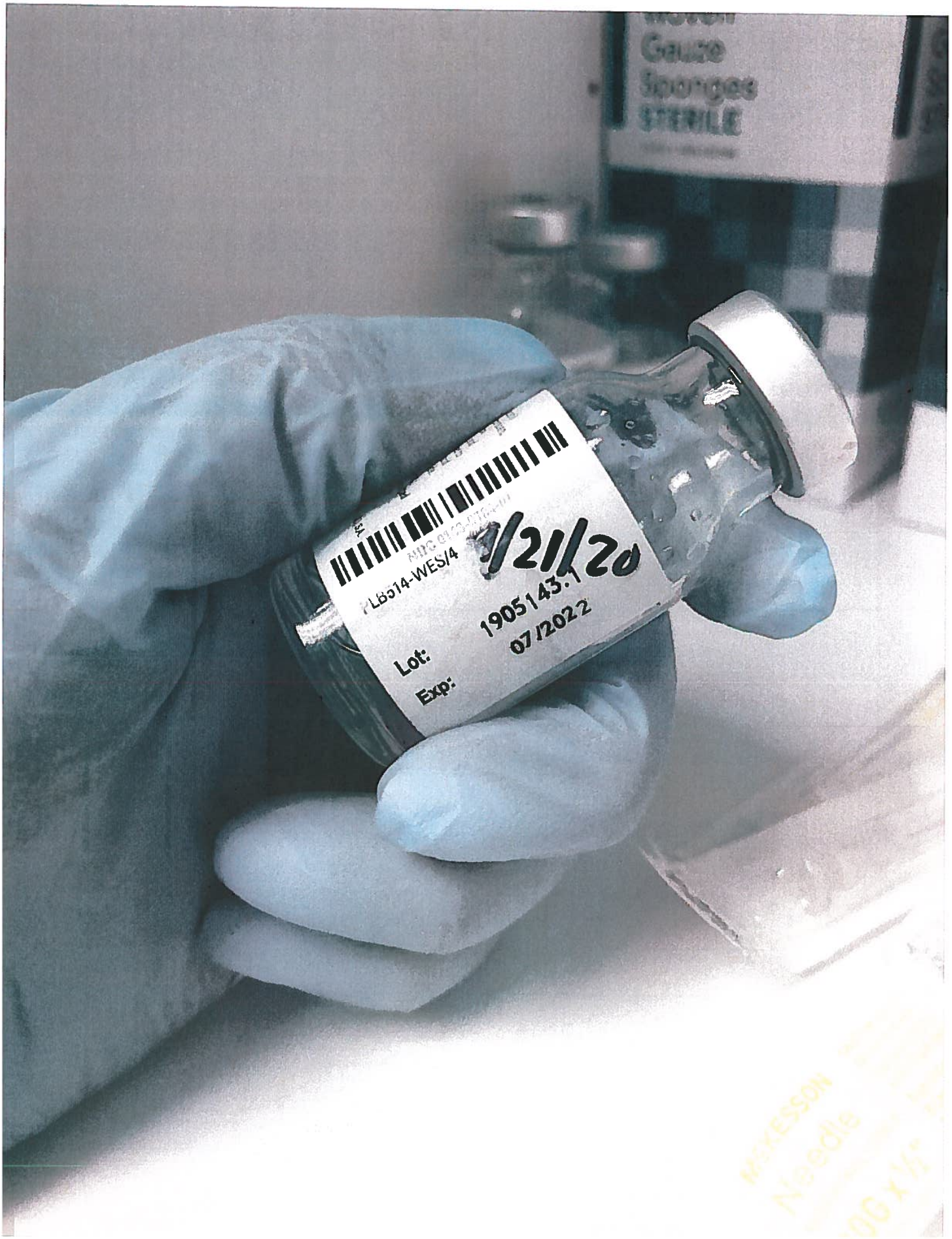
1: 69649 [redacted] 10/15/2020 OMEPR

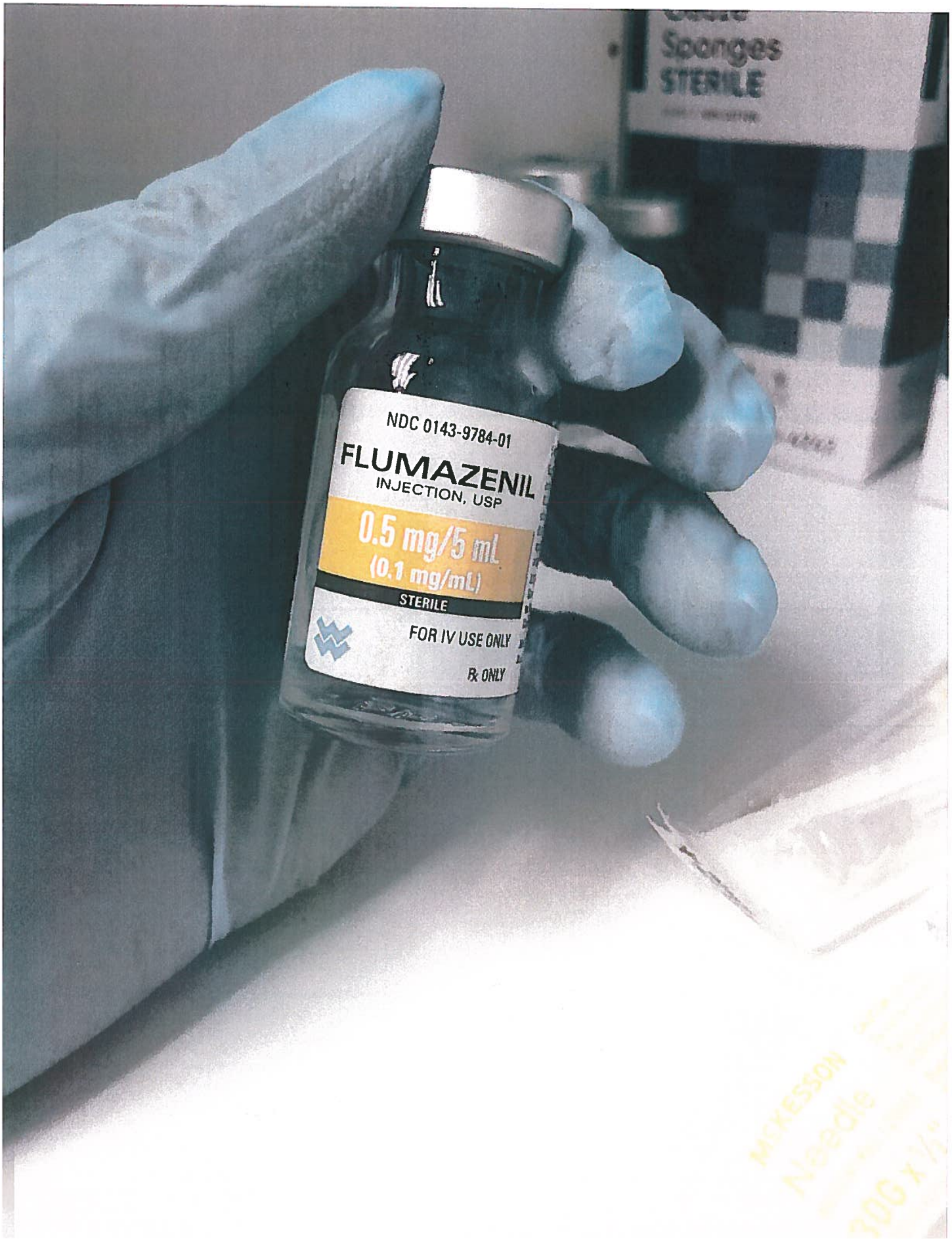
Patient/Caregiver/Relation Name _____ () Self () Caregiver () F

Signature X_____

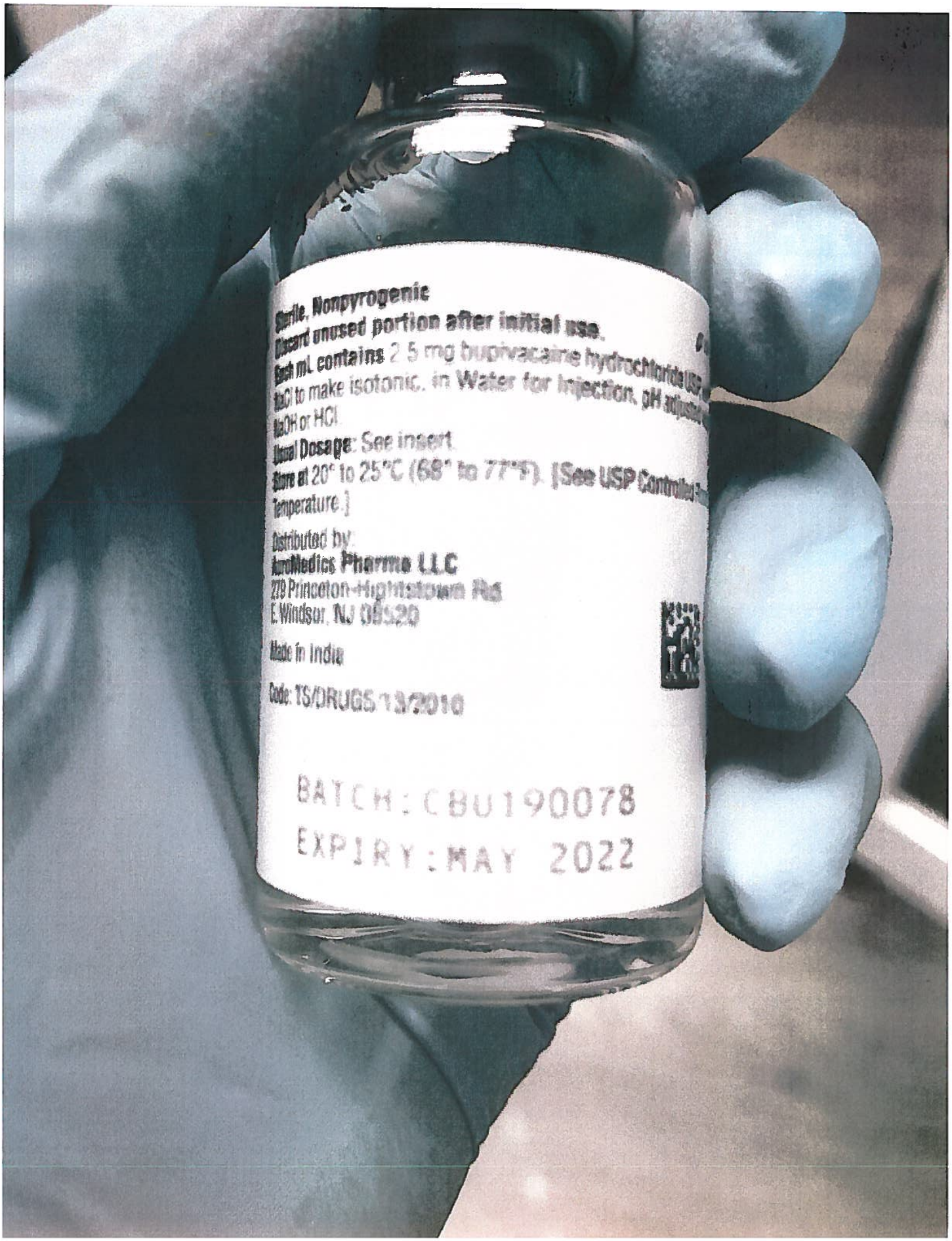
NSBME 1126


Santa Maria
PHARMACY
CAUTION: Federal law prohibits transfer of this drug to any person
RX: 67550
N
SPA, VIDA
IBUPROFEN 800 MG TA
AMNEAL PHARMACE
Use as directed
Gen:
REF: 0
Exp:


Gauze
Sponges
STERILE
LB514-WES/4
1/21/20
Lot: 1905143.1
Exp: 07/2022
McKESSON


Sponges
STERILE
NDC 0143-9784-01
FLUMAZENIL
INJECTION, USP
0.5 mg/5 mL
(0.1 mg/mL)
STERILE
FOR IV USE ONLY
℞ ONLY

Rx only
NDC 55150-168-30
AUROMEDICS
Bupivacaine
HCl Injection, USP
0.25%
75 mg per 30 mL
(2.5 mg / mL)
For INFILTRATION, NERVE BLOCK,
CAUDAL, and EPIDURAL
ANESTHESIA
NOT FOR SPINAL ANESTHESIA
PRESERVATIVE FREE
30 mL Single Dose Vial


Sterile, Nonpyrogenic
Discard unused portion after initial use.
Each mL contains 2.5 mg bupivacaine hydrochloride USP
NaCl to make isotonic, in Water for Injection, pH adjusted
NaOH or HCl
Usual Dosage: See insert.
Store at 20° to 25°C (68° to 77°F). [See USP Controlled
Temperature.]
Distributed by:
AuroMedics Pharma LLC
279 Princeton-Hightstown Rd
E. Windsor, NJ 08520
Made in India
Code: TS/DRUGS 13/2010
BATCH: CBU190078
EXPIRY: MAY 2022

HENRY SCHEIN®

CORPORATE OFFICE

135 Duryea Road • Melville, NY 11747

1.800.472.4346

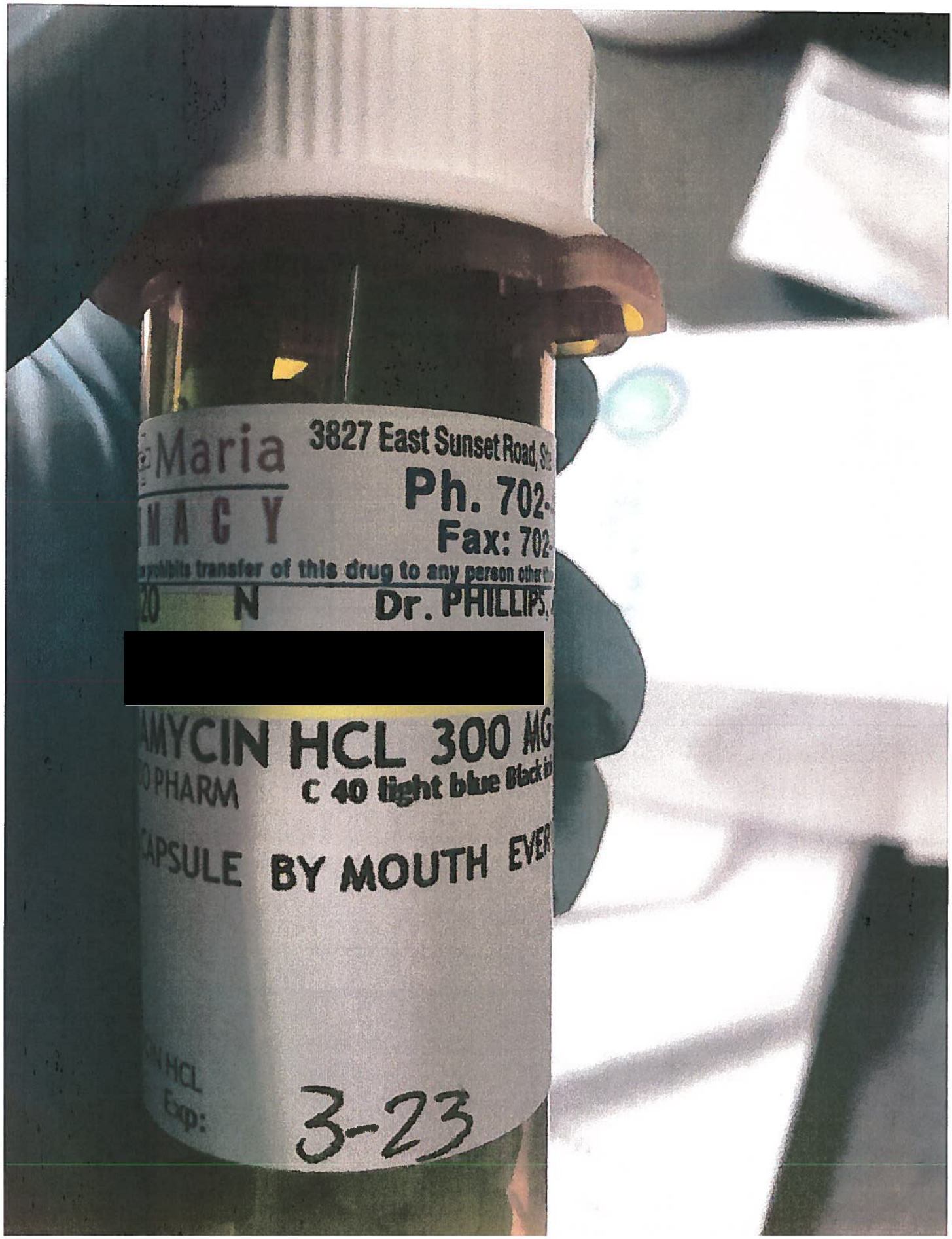
www.henryschein.com

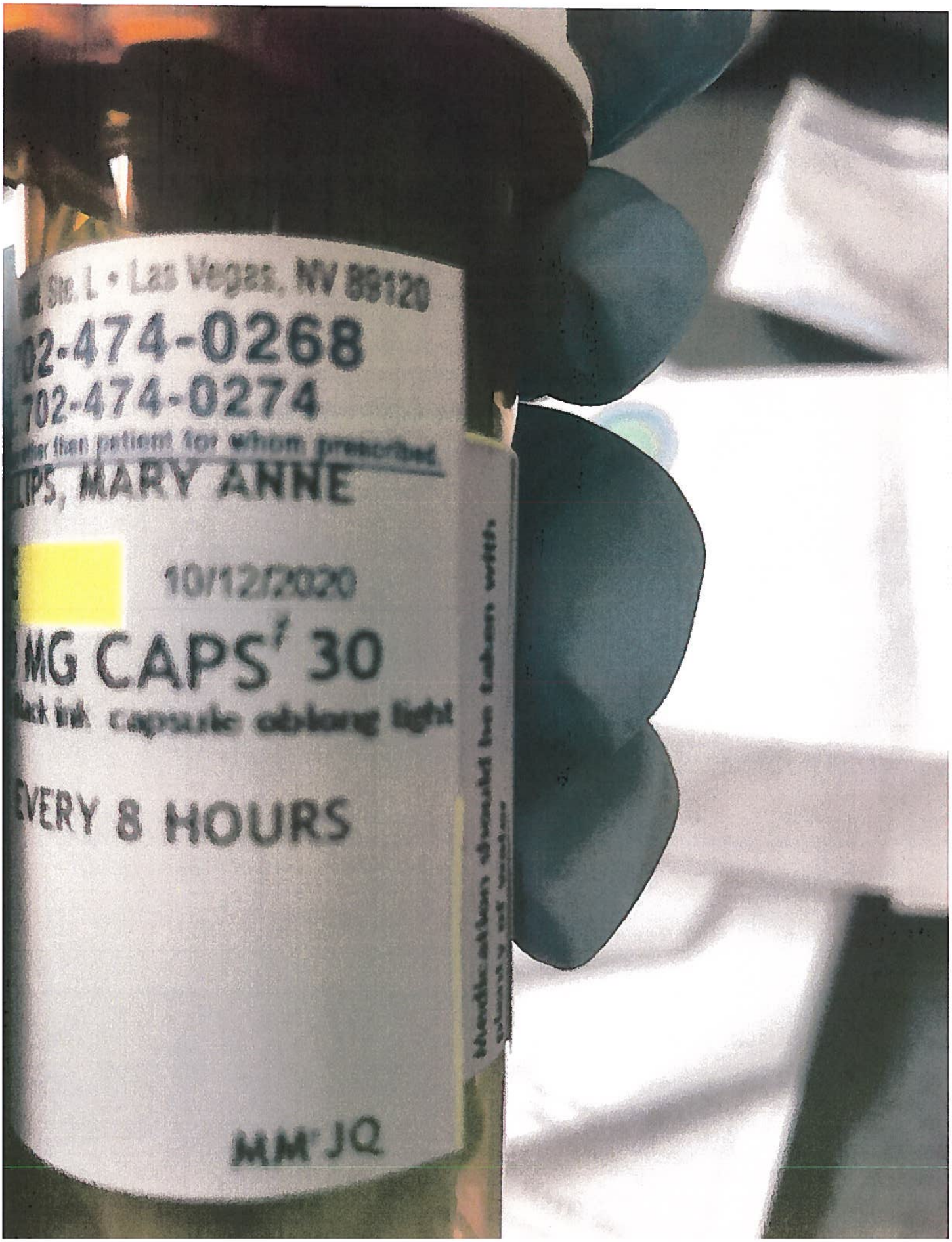
E

SS
HO
IL VIDA MED SPA LLC
PD 3225 S RAINBOW BLVD STE 206
TT CHARMAINE PORCII
OO LAS VEGAS NV 89146

LOCATION CODE	SHIPPED QTY	PACK CODE	UNIT SIZE
E-11-05-96	1		EA
			WEST
			HENR
			255
			SPA

Santa Maria
PHARMACY
CAUTION: Federal law prohibits transfer
RX: 71020
CLINDAMYCIN
AUROBINDO PHARM
TAKE 1 CAPSULE
Gen: CLEOCIN HCL
Exp:


Maria
3827 East Sunset Road,
Ph. 702-
Fax: 702-
Dr. PHILLIPS,
AMYCIN HCL 300 MG
PHARM
C 40 light blue Black
CAPSULE BY MOUTH EVER
HCL
Exp:
3-23


Ste. L • Las Vegas, NV 89120
02-474-0268
702-474-0274
ther than patient for whom prescribed
IPS, MARY ANNE
10/12/2020
MG CAPS 30
ack ink capsule oblong light
VERY 8 HOURS
MM JQ

Anna Luisa Solano R.N.

Natasha Hernandez manas

REAFFIR-SI®

Professional Dermocosmetic
Toning Solution / Solución Reafirmante

BATC
MFG:

EXP.D

Ingredients: Ascorbic Acid, Sodium Bicarbonate, Methylsilanol Mannuronate, Centella Asiatica Root Extract, Propylene Glycol, Imidazolidinyl Urea, Water.

EXTERNAL USE ONLY

s: Apply on the skin with a gentle massage until ly absorbed.

If you have any sensitivity, stop use temporarily. of reach of children.

o y distribuido por:
ORIOS VITACELLS S.A.
ador)
PHARMACEUTICAL S.A.C.
lmeras 233-235 urbanización José Olaya
ima-Perú. Ruc:20603259921
ULTINATIONAL / ESTHETICS GLOBAL
globalmultinational.com

USO TÓPICO

Modo de Empleo: Aplicar sobre la piel c masaje hasta su total absorción.

Precauciones: Si presenta alguna sensibilid el uso temporalmente. Manténgase fuera d los niños.

Fabricado por DENOVA PHARMACEUTICAL
Cajicá, Cundinamarca, (Colombia).
www.denovapharma.com
INVIMA No. NSOC28587-08CO

STORAGE
CONTAINER
With Assorted Color Lid
Momentum Brands
REAFFIR-SI®
Professional Dermocosmetic
Toning Solution / Solución Reafirmante

Corvalol® K®
Корвалол® К
10 капсул мягких
Фармак
10 капсул м'яких
global
REAFFIR SI

NSBME 1138

STORE AT ROOM TEMPERATURE

KEEP OUT OF THE REACH OF CHILD REN

Caution: Federal law prohibits transfer of this drug to any other person than the patient for whom prescribed.

EmpoweRx PHARMACY

5980 W Sam Houston Pkwy N Ste 300
Houston, TX 77041 Phone (877) 562-8577
www.empowerpharmacy.com

KIARASH MIRKIA MD

TK2269952

Rx#90178112 N

VIDA SPA, LLC*

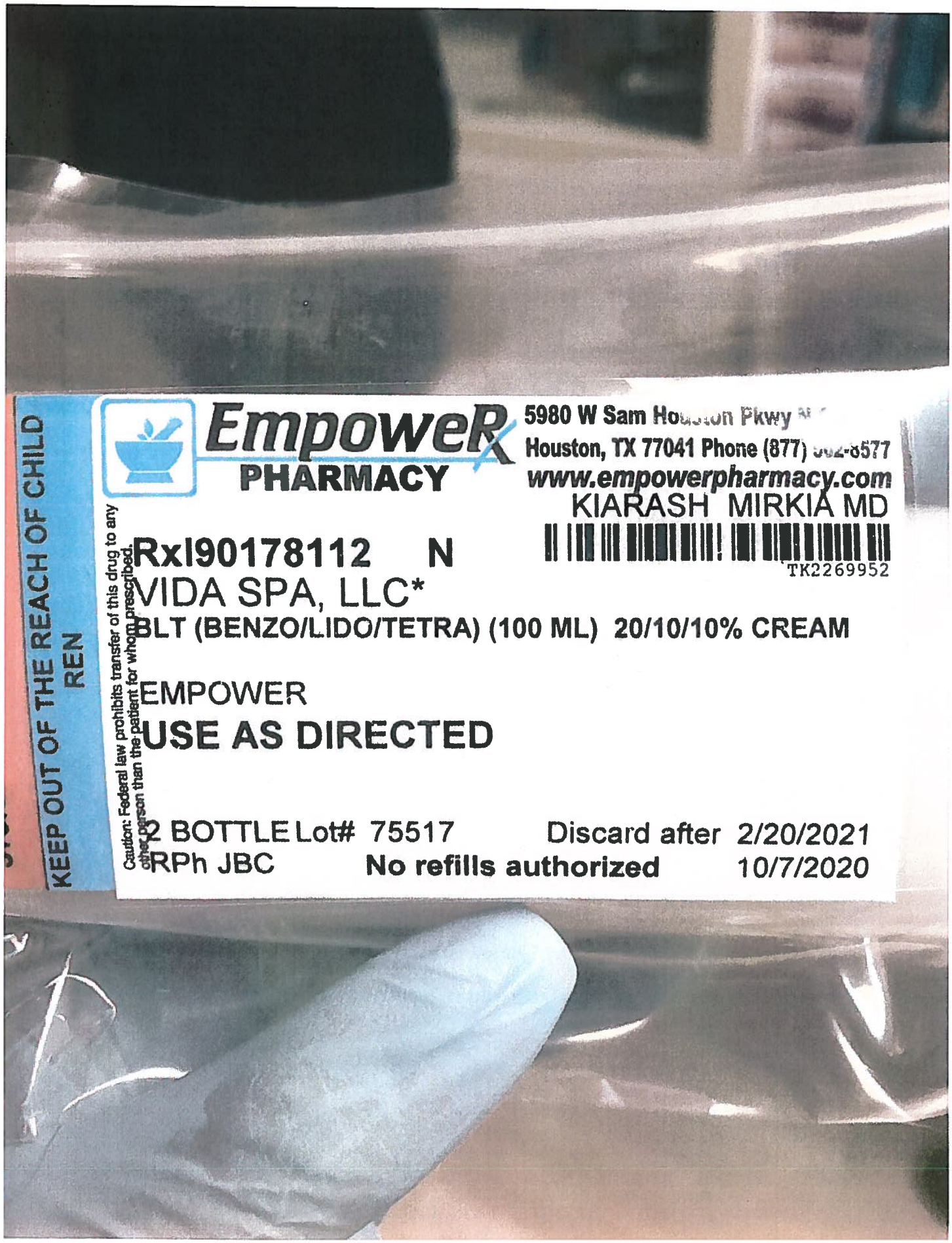
BLT (BENZO/LIDO/TETRA) (100 ML) 20/10/10% CREAM

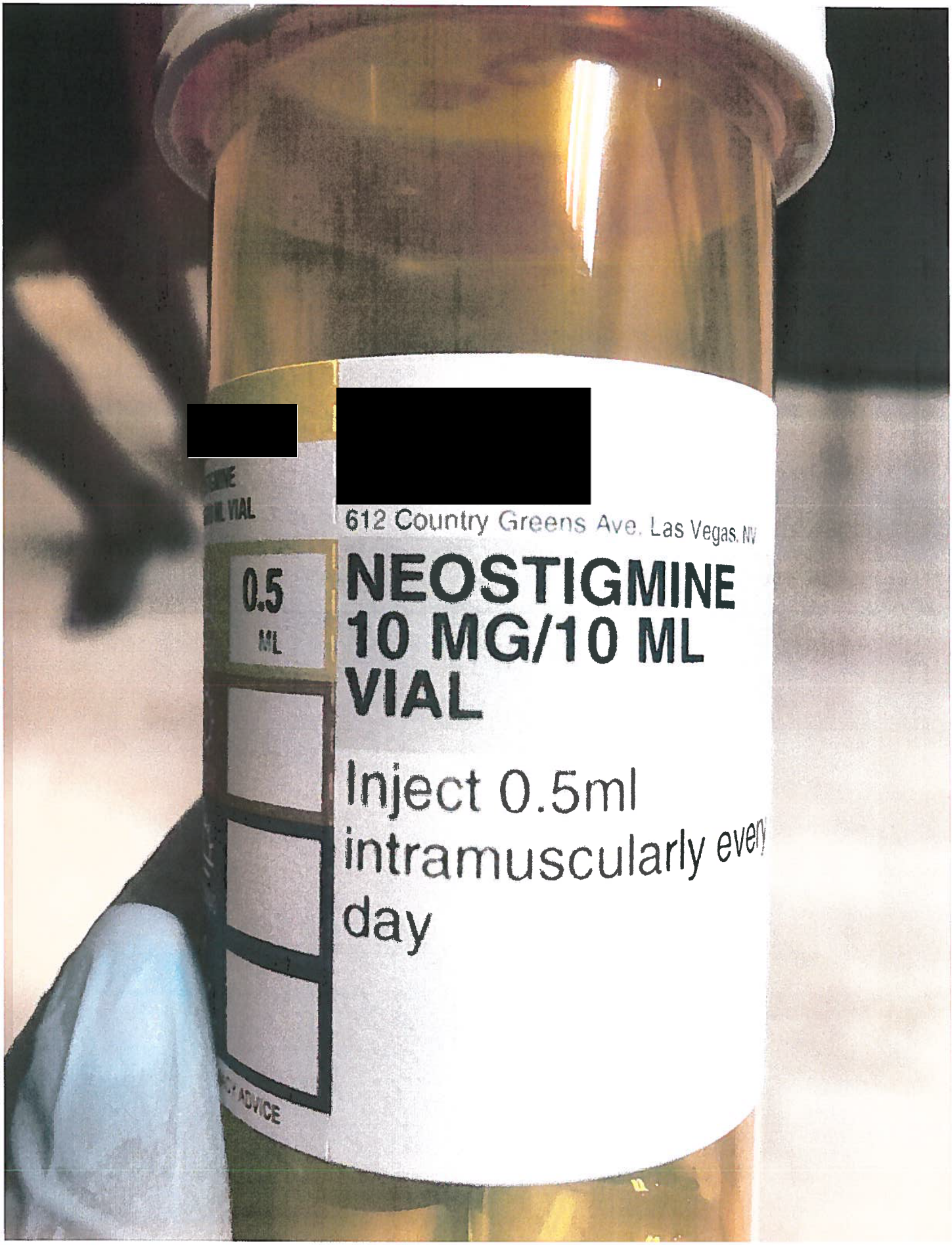
EMPOWER

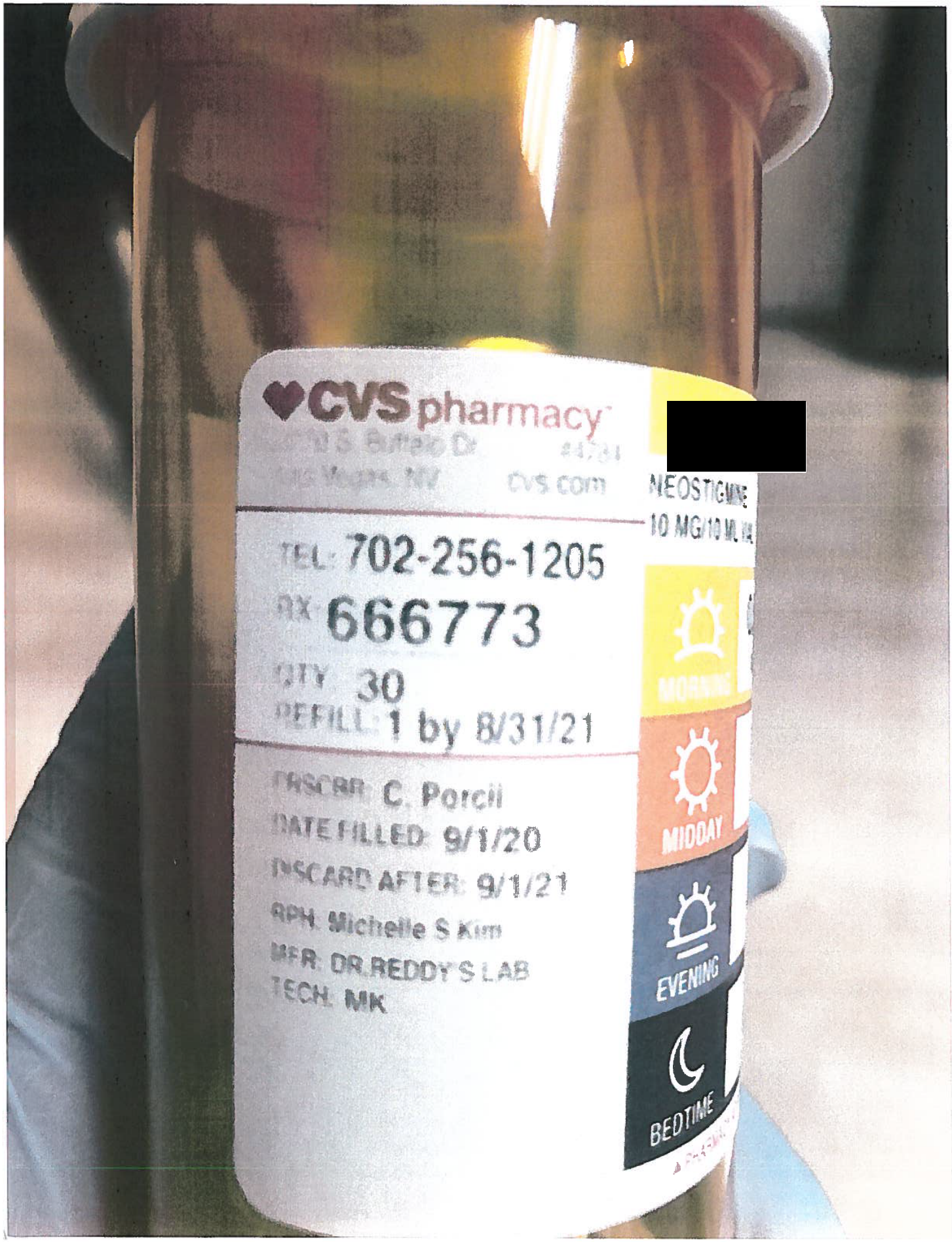
USE AS DIRECTED

2 BOTTLE Lot# 75517 Discard after 2/20/2021

RPh JBC No refills authorized 10/7/2020


KEEP OUT OF THE REACH OF CHILD
REN
Caution: Federal law prohibits transfer of this drug to any other person than the patient for whom prescribed.
EmpoweRx
PHARMACY
5980 W Sam Houston Pkwy N
Houston, TX 77041 Phone (877) 302-8577
www.empowerpharmacy.com
KIARASH MIRKIA MD
TK2269952
Rx190178112 N
VIDA SPA, LLC*
BLT (BENZO/LIDO/TETRA) (100 ML) 20/10/10% CREAM
EMPOWER
USE AS DIRECTED
2 BOTTLE Lot# 75517 Discard after 2/20/2021
RPh JBC No refills authorized 10/7/2020


[redacted]
[redacted]
612 Country Greens Ave. Las Vegas, NV
0.5
ML
NEOSTIGMINE
10 MG/10 ML
VIAL
Inject 0.5ml
intramuscularly every
day


CVS pharmacy
[redacted]
cvs.com
NEOSTIGMINE
10 MG/10 ML
TEL: 702-256-1205
RX: 666773
QTY: 30
REFILL: 1 by 8/31/21
PRSCBR: C. Porcil
DATE FILLED: 9/1/20
DISCARD AFTER: 9/1/21
RPH: Michelle S Kim
MFR: DR.REDDY'S LAB
TECH: MK
MORNING
MIDDAY
EVENING
BEDTIME

라스베가스중앙교회
93E 565

Calm USP 2.5%/2.5%
Calmoseptine®
Ointment
protects, soothes, helps promote healing
the original
Triamcinolone Acetonide
Ointment USP 0.025%
NET WT 80g
Perrigo

Santa Maria Pharmacy
3827 E. Sunset Road, Unit L
Las Vegas, NV 89120
Phone : (702) 474-0268
Fax : (702) 474-0274

Delivered To: 32250S RAINBOW BLVD #206
NORTH LAS VEGAS NV 89031
(702) 371-6571

Rx Delivery Receipt

10/16/2020 10:16:30 AM

		RxDate	Drg Name	Qty	Pkg	Cost
1: 69649	[redacted]	10/15/2020	OMEPRAZOLE DR 20 MG CAPSULE	30	1	$5.00

$5.00

Patient/Caregiver/Relation Name _____ () Self () Caregiver () Parent () Sibiling () Child () Others_____

Signature X_____ Date / Time _____

Driver:JM/JQ x____

Comments/Notes :

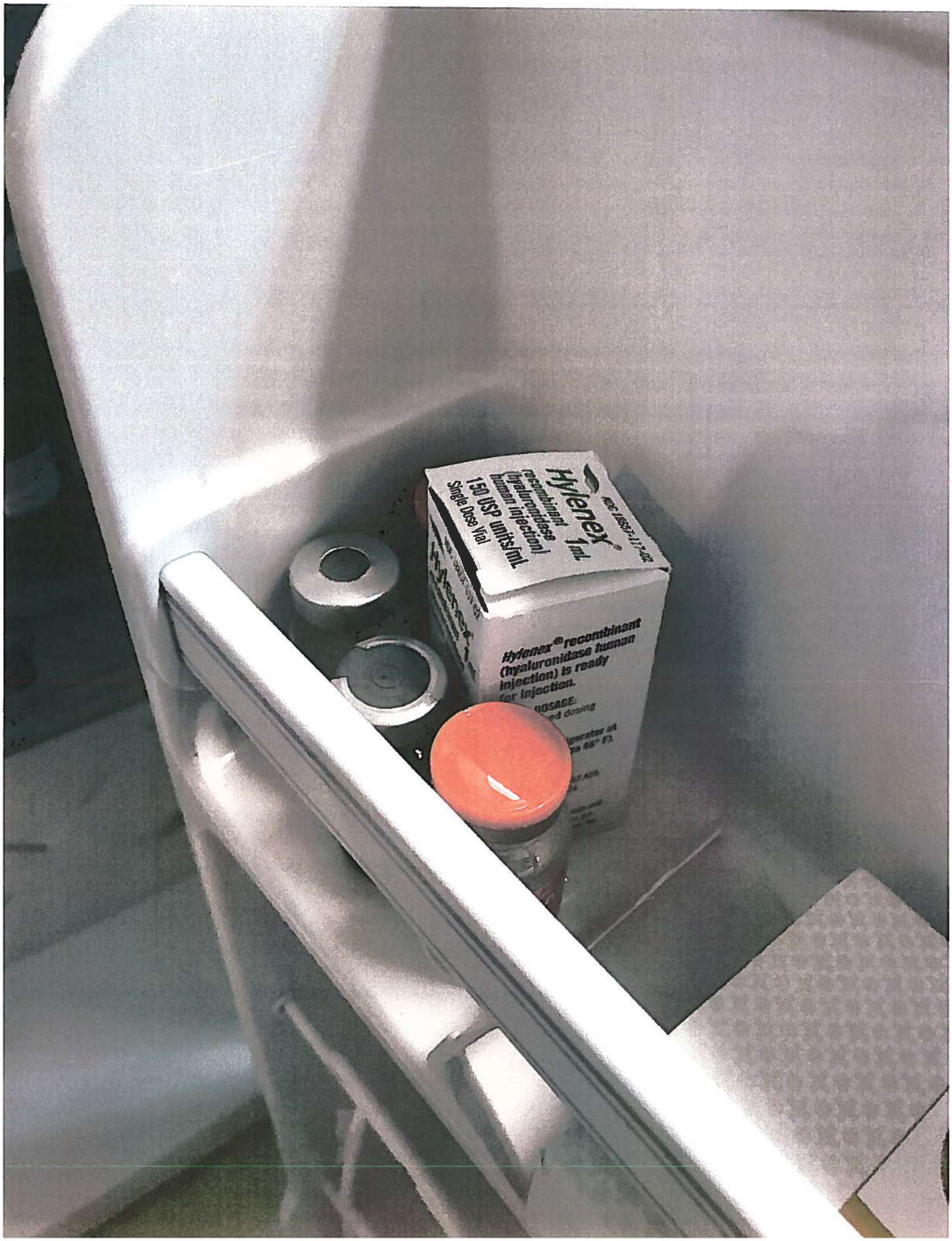
The enclosed prescription(s) are being delivered to you on behalf of Santa Maria Pharmacy. You are entitled to consult with our Pharmacist about your medication(s). Please contact us at (702) 474-0268 during normal business hours for a consultation.

Any Questions or concerns? Please contact us at (702) 474-0268.

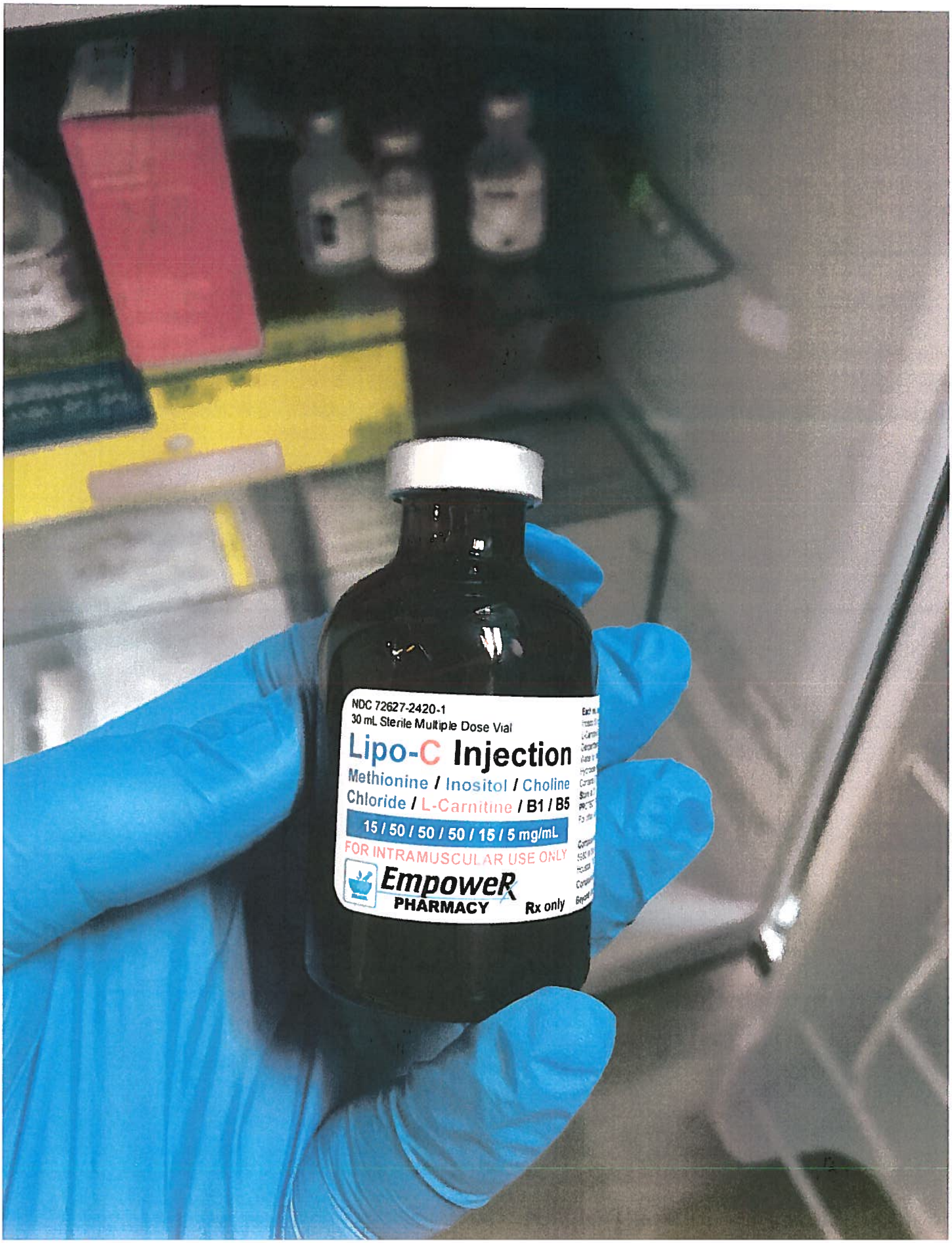
I Authorize the release of medical or other inforamtion necessary to process the claim.
I Also Request the payment of benefit to: Santa Maria Pharmacy
I Acknowledge the receipt of the following :
- Bill of Rights
- Consent of Pharmacy delivery service/assignment of benefits
- Notice of privacy practice
- Patient's Satisfaction survey

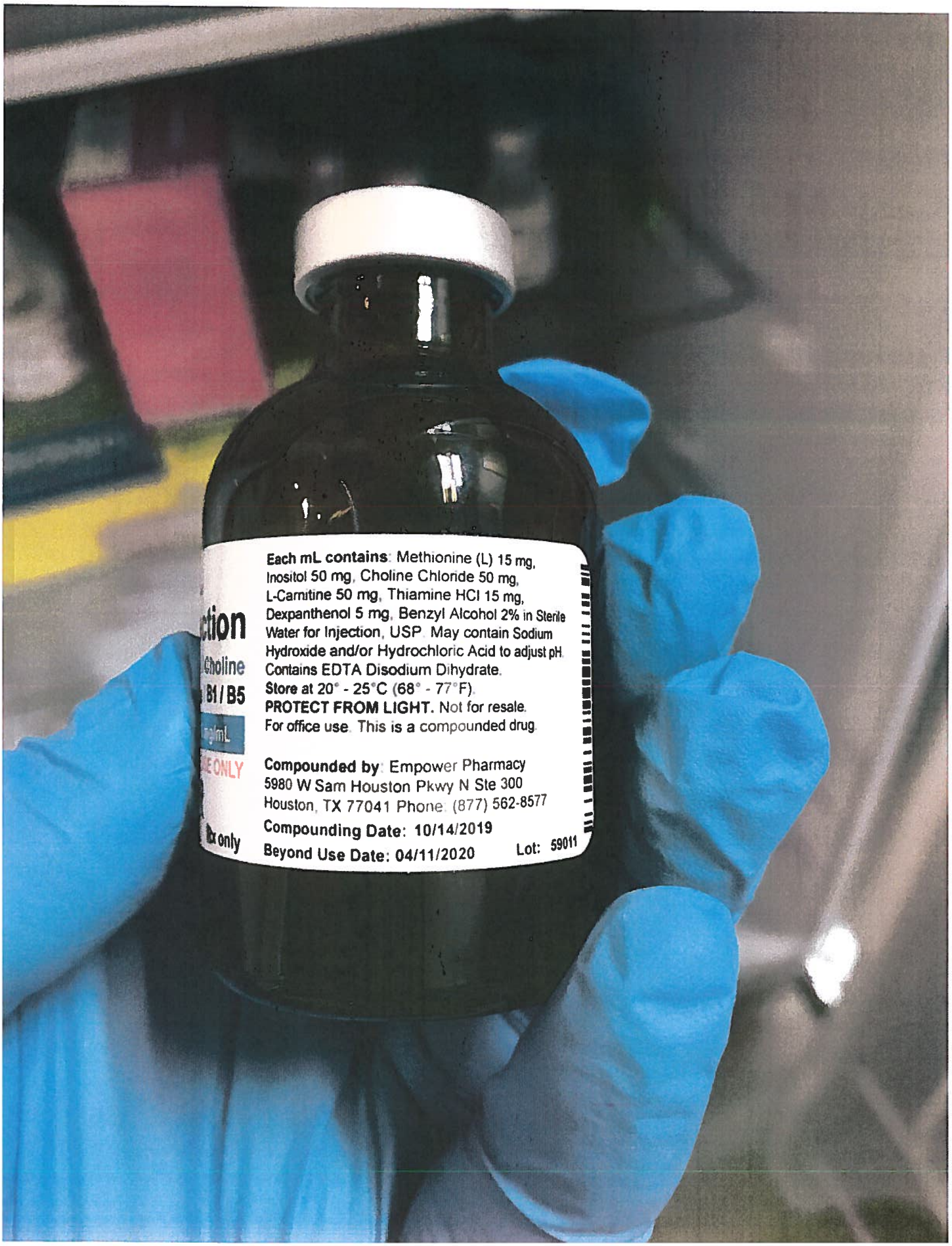
Log #: 282229

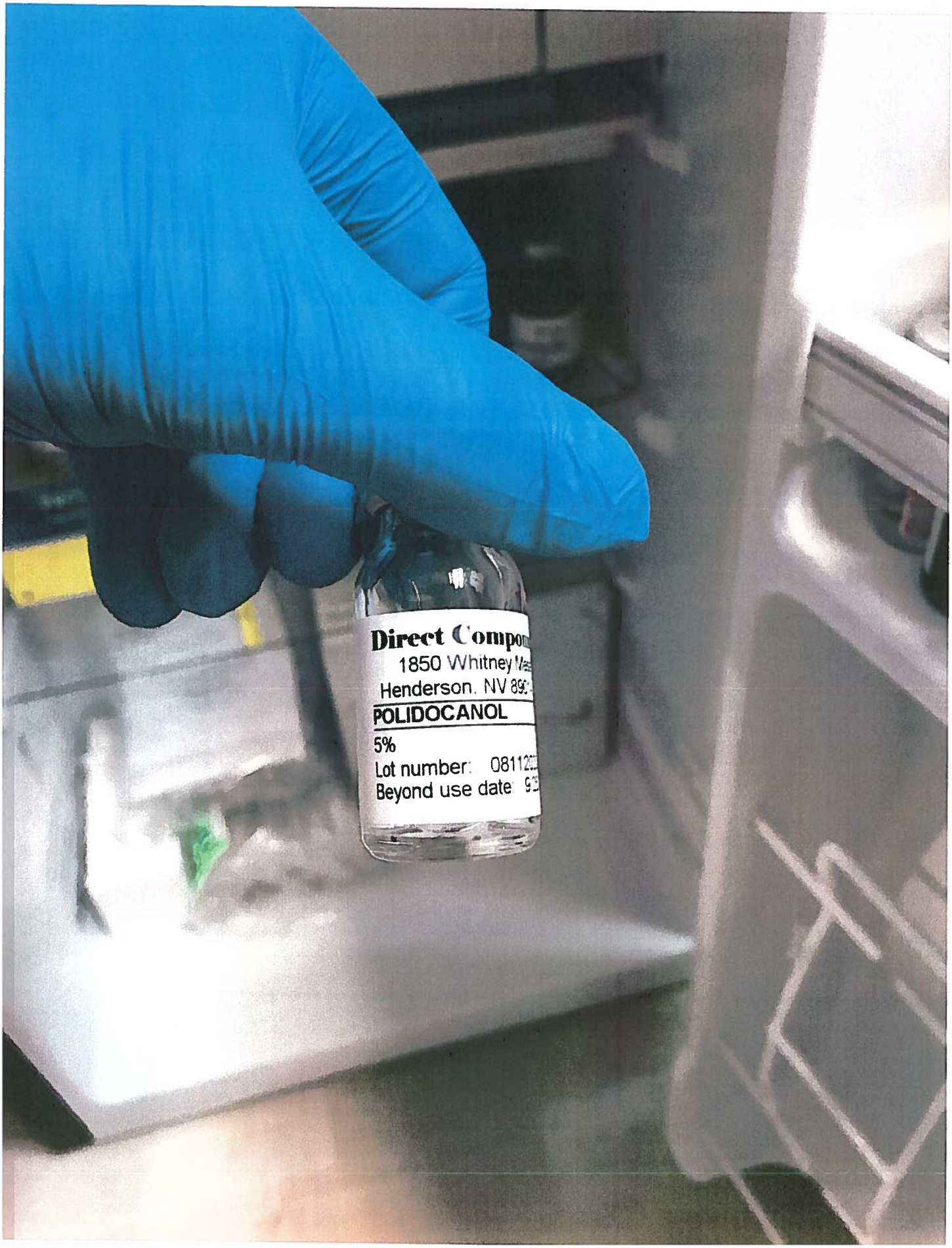
No Preservative
PROPOFOL
Injectable Emulsion, USP
200 mg per 20 ml
(10 mg per ml)
25 x 20 mL Single-Patient Infusion Vials
Contains a Sulfite
FOR INTRAVENOUS ADMINISTRATION
Sterile, Nonpyrogenic
For Single-Patient Use Only
VIDA MED SPA
POLIDOCANOL
10ML VIAL
KEEP FROZEN UNTIL READY TO USE
Bupivacaine
For INFILTRATION, NERVE BLOCK, CAUDAL, and EPIDURAL ANESTHESIA
NOT FOR SPINAL ANESTHESIA
PRESERVATIVE FREE
25 x 30 mL Single Dose Vials

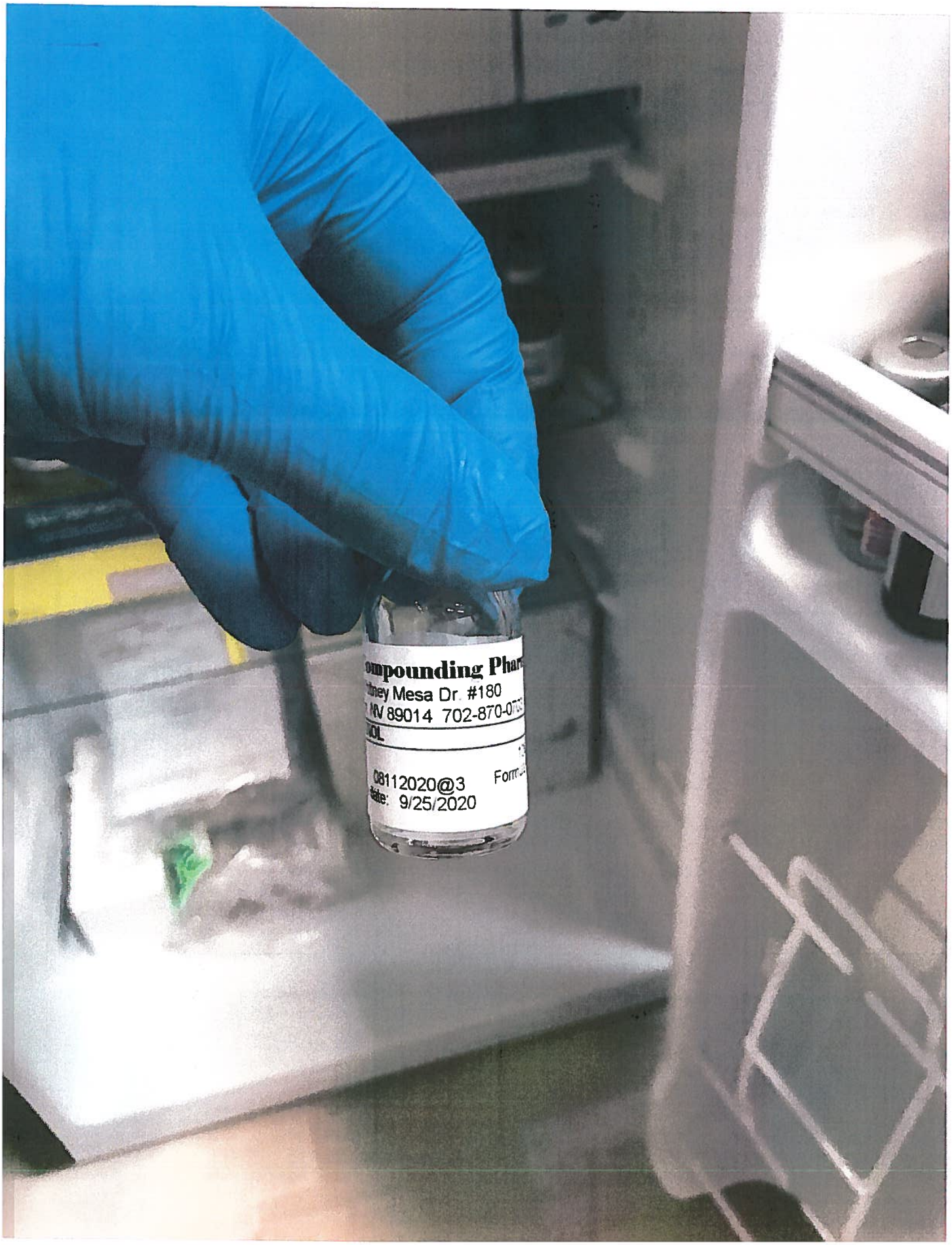

Hylenex® 1mL
recombinant
(hyaluronidase
human injection)
150 USP units/mL
Single Dose Vial
Hylenex® recombinant
(hyaluronidase human
injection) is ready
for injection.

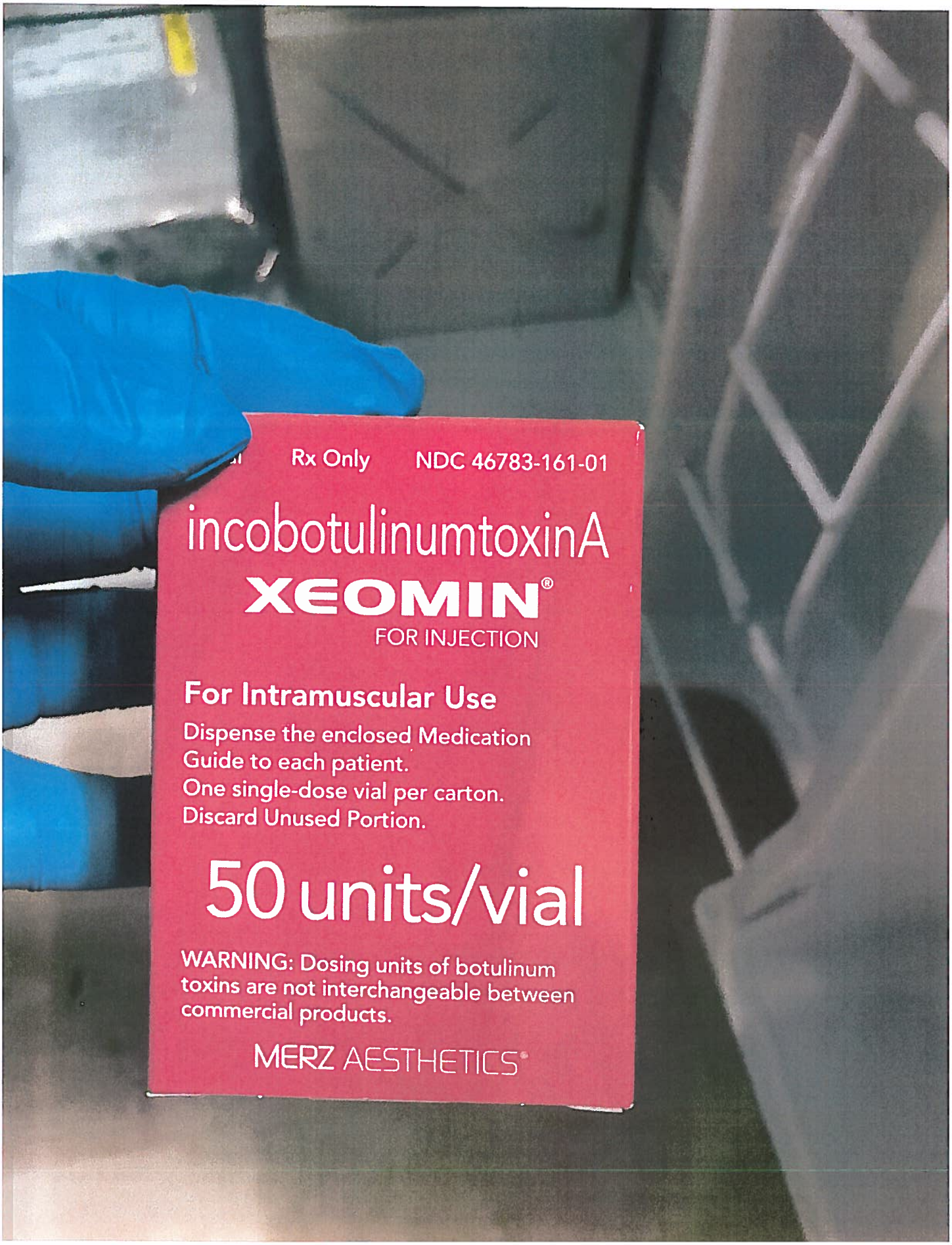
XEOMIN
Each vial contains 50 units of Clostridium Botulinum Neurotoxin Type A, human albumin (1 mg), and sucrose (4.7 mg)
No Preservative
No U.S. Standard of Potency
Manufactured by
Merz Pharmaceuticals GmbH
Eckenheimer Landstrasse 100
Frankfurt Germany
U.S. License Number 1830
Distributed by
Merz North America, Inc.
Franksville, WI 53126
PROPOFOL
Injectable Emulsion, USP
Injection
Bupivacaine
75 mg per 38 mL
(2.5 mg / mL)
For INFILTRATION, NERVE BLOCK, CAUDAL, and EPIDURAL ANESTHESIA

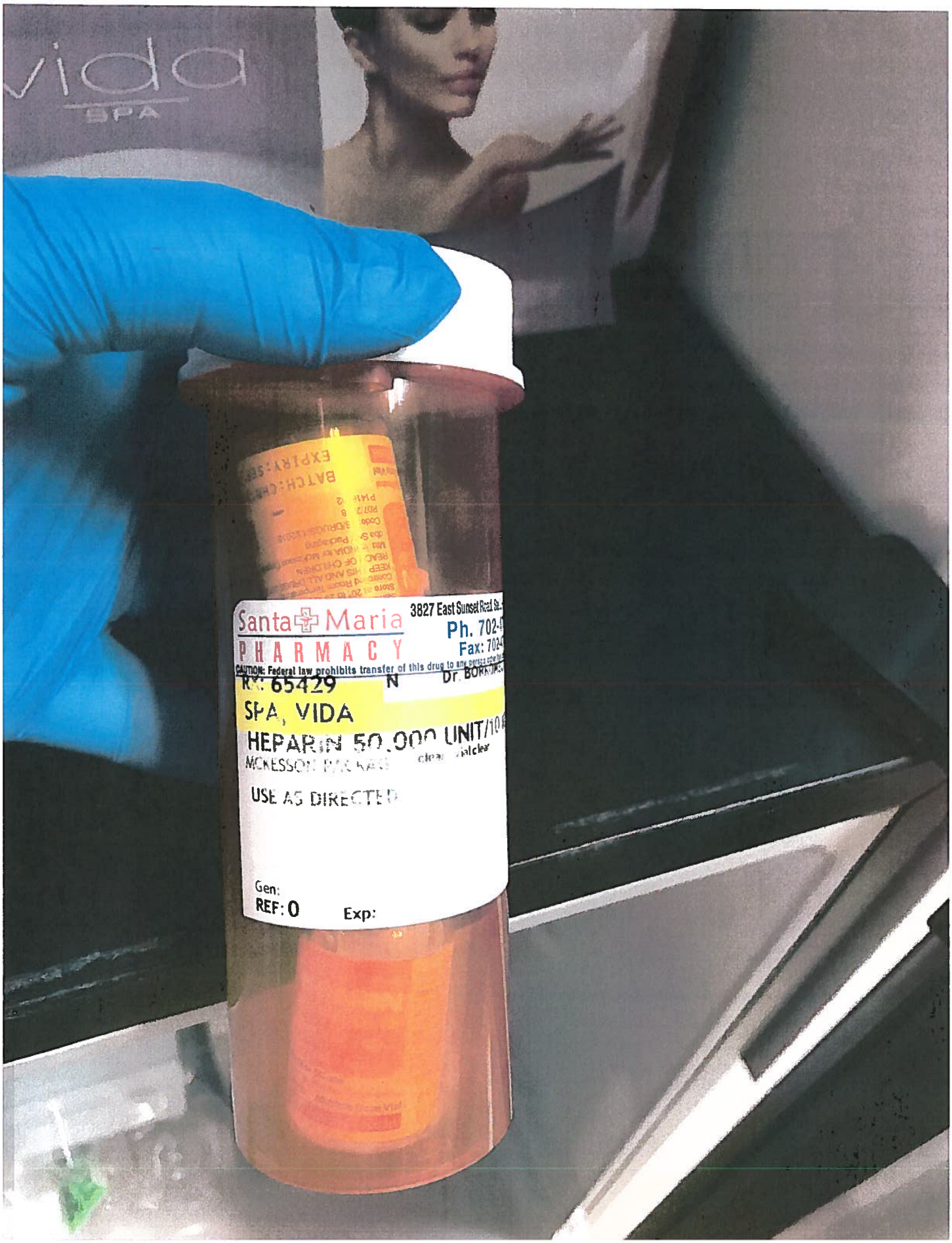

NDC 72627-2420-1
30 mL Sterile Multiple Dose Vial
Lipo-C Injection
Methionine / Inositol / Choline
Chloride / L-Carnitine / B1 / B5
15 / 50 / 50 / 50 / 15 / 5 mg/mL
FOR INTRAMUSCULAR USE ONLY
EmpoweR
PHARMACY
Rx only

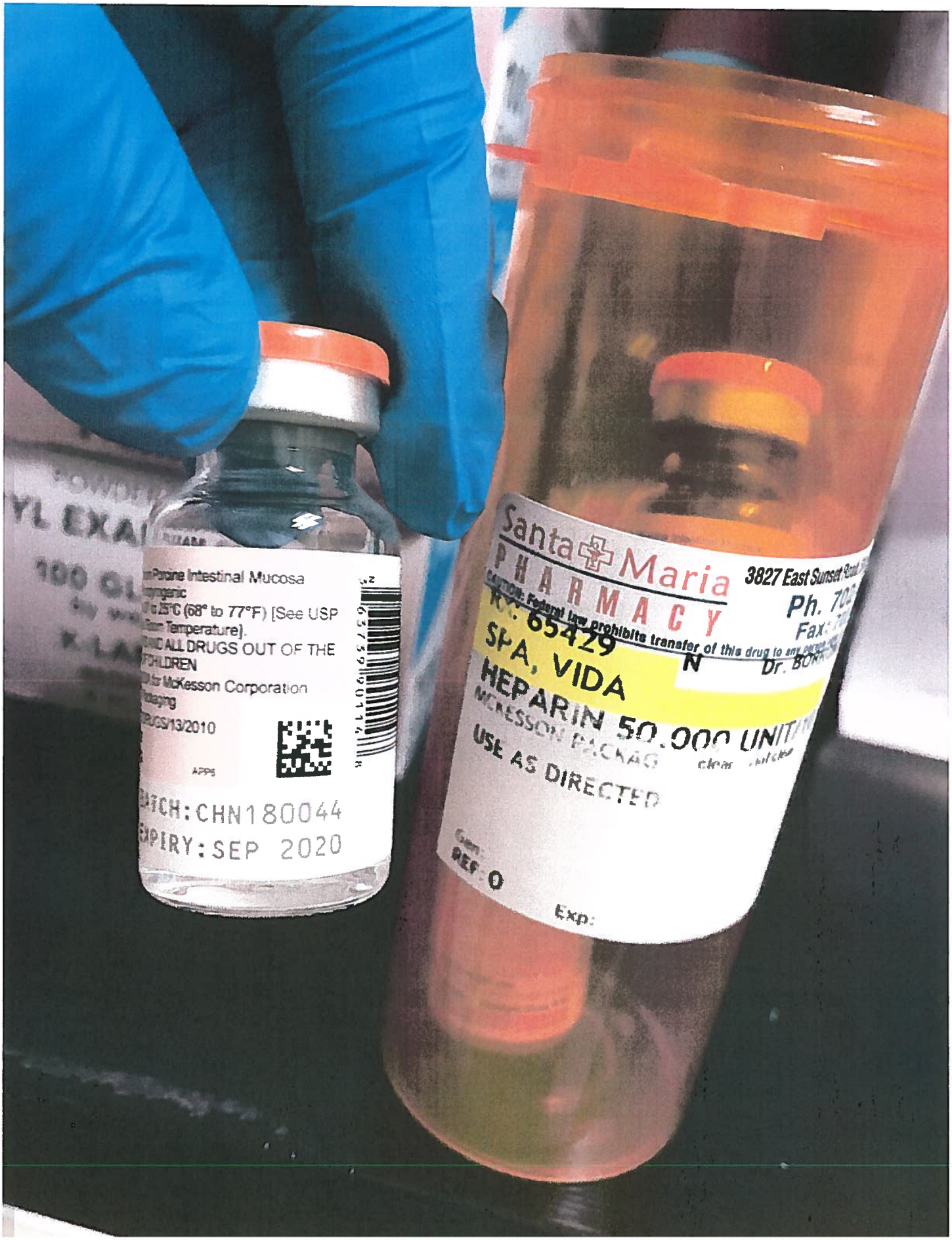

ction
Choline
B1 / B5
mg/mL
E ONLY
Rx only
Each mL contains: Methionine (L) 15 mg, Inositol 50 mg, Choline Chloride 50 mg, L-Carnitine 50 mg, Thiamine HCl 15 mg, Dexpanthenol 5 mg, Benzyl Alcohol 2% in Sterile Water for Injection, USP. May contain Sodium Hydroxide and/or Hydrochloric Acid to adjust pH. Contains EDTA Disodium Dihydrate.
Store at 20° - 25°C (68° - 77°F).
PROTECT FROM LIGHT. Not for resale.
For office use. This is a compounded drug.
Compounded by: Empower Pharmacy
5980 W Sam Houston Pkwy N Ste 300
Houston, TX 77041 Phone: (877) 562-8577
Compounding Date: 10/14/2019
Beyond Use Date: 04/11/2020
Lot: 59011

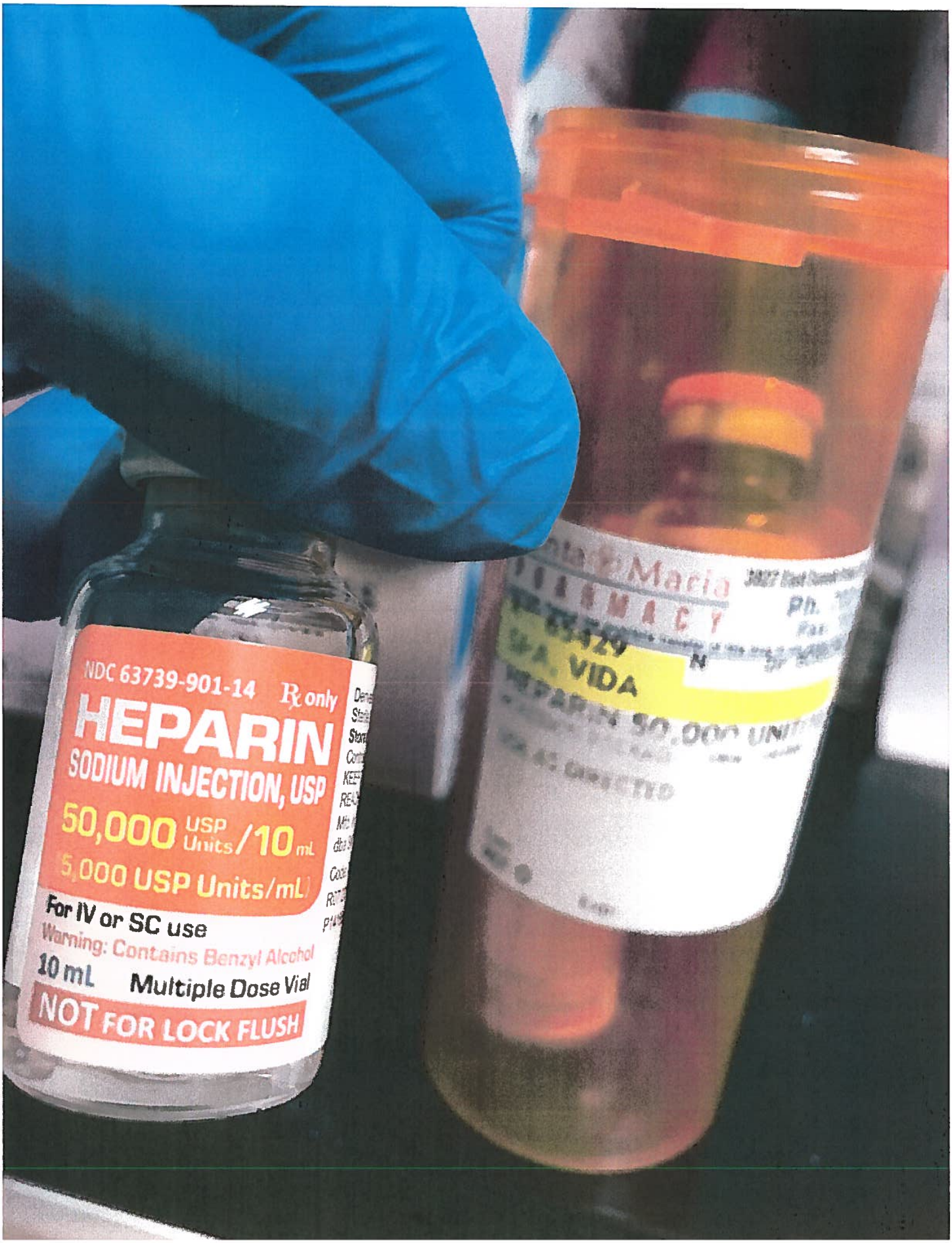

Direct Compou
1850 Whitney
Henderson, NV 89
POLIDOCANOL
5%
Lot number:
Beyond use date:


ompounding Phar
ney Mesa Dr. #180
NV 89014 702-870-0
08112020@3
Date: 9/25/2020


Rx Only
NDC 46783-161-01
incobotulinumtoxinA
XEOMIN®
FOR INJECTION
For Intramuscular Use
Dispense the enclosed Medication Guide to each patient.
One single-dose vial per carton.
Discard Unused Portion.
50 units/vial
WARNING: Dosing units of botulinum toxins are not interchangeable between commercial products.
MERZ AESTHETICS®


vida
SPA
Santa Maria
PHARMACY
3827 East Sunset Road
Ph. 702-
Fax: 702-
CAUTION: Federal law prohibits transfer of this drug to any person other
Rx: 65429
N
Dr. BORK
SPA, VIDA
HEPARIN 50,000 UNIT/10
clear vial/clear
USE AS DIRECTED
Gen:
REF: 0
Exp:


Porcine Intestinal Mucosa
Pyrogenic
25°C (68° to 77°F) [See USP
Temperature].
ALL DRUGS OUT OF THE
CHILDREN
McKesson Corporation
Packaging
APPS
BATCH: CHN180044
EXPIRY: SEP 2020
Santa Maria
PHARMACY
3827 East Sunset
Ph. 702
Fax:
CAUTION: Federal law prohibits transfer of this drug to any person
Rx: 65429
N
Dr.
SPA, VIDA
HEPARIN 50,000 UNITS
MCKESSON PACKAG
USE AS DIRECTED
REF: 0
Exp:


NDC 63739-901-14
Rx only
HEPARIN
SODIUM INJECTION, USP
50,000 USP Units/10 mL
(5,000 USP Units/mL)
For IV or SC use
Warning: Contains Benzyl Alcohol
10 mL
Multiple Dose Vial
NOT FOR LOCK FLUSH
VIDA

Direct Compounding
1850 Whitney Mesa Drive Suite 180 Henderson, NV 89014
888-341-0157 FD8137968
Caution: Federal law prohibits transfer of this drug to any other person than patient for whom prescribed.

MARYANN PHILLIPS

Rx190000288
VIDA MED SPA*
3225 S RAINBOW BLVD LAS VEGAS, NV 89146
POLIDOCANOL 10ML VIAL
5%
10ML/20ML Lot# 08112020@3 Discard after 9/25/2020
For office use
SS No refills authorized 8/10/2020

KEEP FROZEN UNTIL FIRST USE

VEINS

INVOICE # 1655
DATE 08/10/2020
DUE DATE 09/09/2020
TERMS Net 30

LVD.
146 US

	RATE	AMOUNT
	4.90	98.00

ding
ve Suite 180 Henderson, NV 89014
FD8137968
er of this drug to any other person than patient for whom prescribed.

MARYANN PHILLIPS

SPA*
LAS VEGAS, NV 89146
L

10ML VIAL

Lot# 08112020@3 Discard after 9/25/2020

lls authorized 8/10/2020

KEEP FROZEN UNTIL FIRST USE

INVOICE # 1655
DATE

NSBME 1158

Direct Compounding
1850 Whitney Mesa Drive Suite 180 Henderson, NV 89014
888-341-0157 FD8137968
Caution: Federal law prohibits transfer of this drug to any other person than patient for whom prescribed.
MARYANN PHILLIPS
Rx190000268
VIDA MED SPA*
3225 S RAINBOW BLVD LAS VEGAS, NV 89146
POLIDOCANOL
5%
10ML VIAL
10ML/20ML Lot# 07202020@3 Discard after 9/3/2020
For office use
SS No refills authorized 7/16/2020

KEEP FROZEN UNTIL FIRST USE

Direct Compounding and Outsourcing
1850 Whitney Mesa Drive, Suite 180
Henderson, NV 89014 US

INVOICE

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV

ACTIVITY
DRUG/COMPOUND POLIDOCANOL 5% 10ML
Rx#

Compounding Pharmacy
Mesa Dr. #180
702-870-0703
10ML
Formula

NDC 0143-9784-10 PLB792-WES/2

FLUMAZENIL INJECTION, USP

0.5 mg/5 mL Rx only

(0.1 mg/mL)

STERILE

FOR IV USE ONLY

10 x 5 mL Multiple Dose Vials

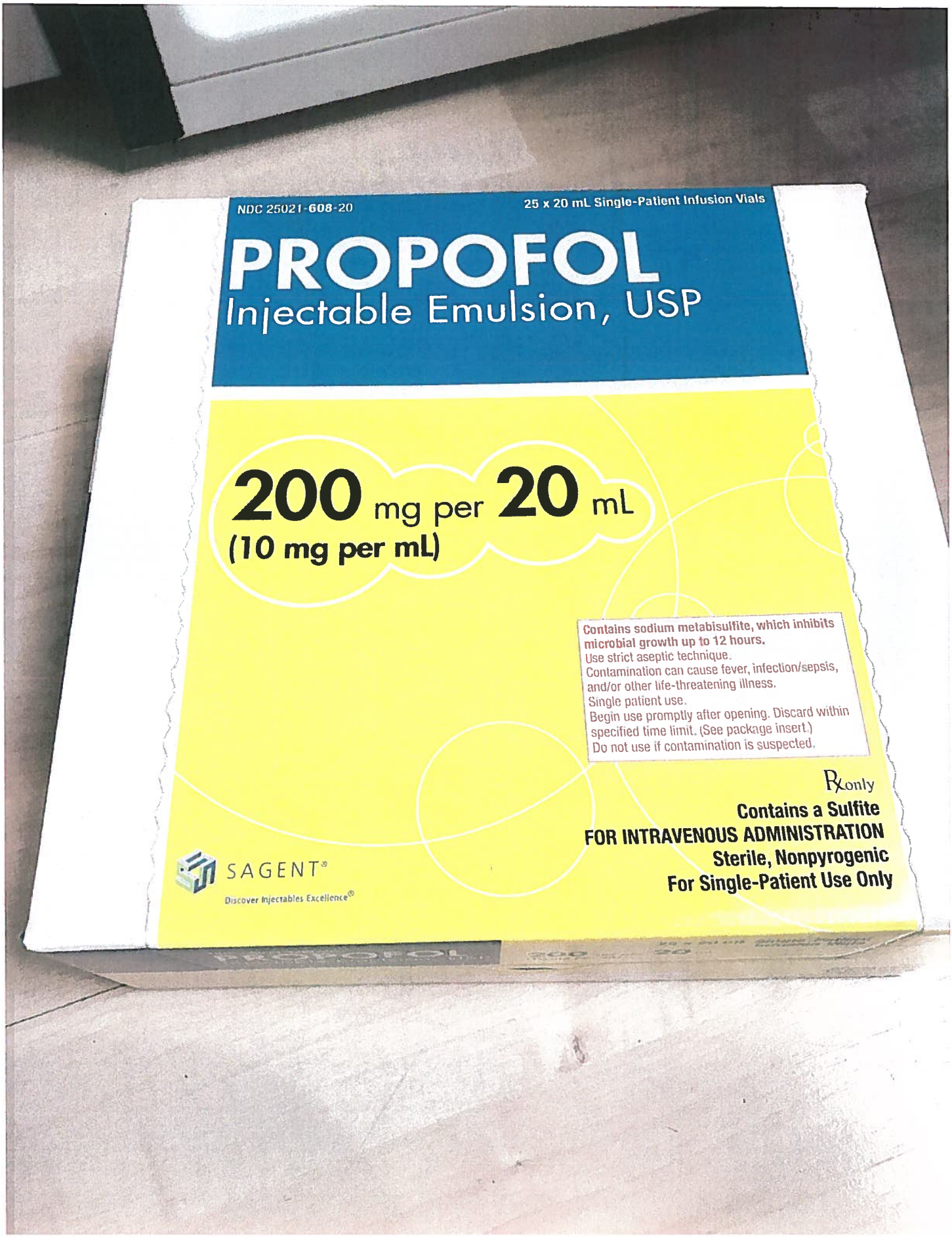
Distributed by:
WEST-WARD
Eatontown, NJ 07724 USA

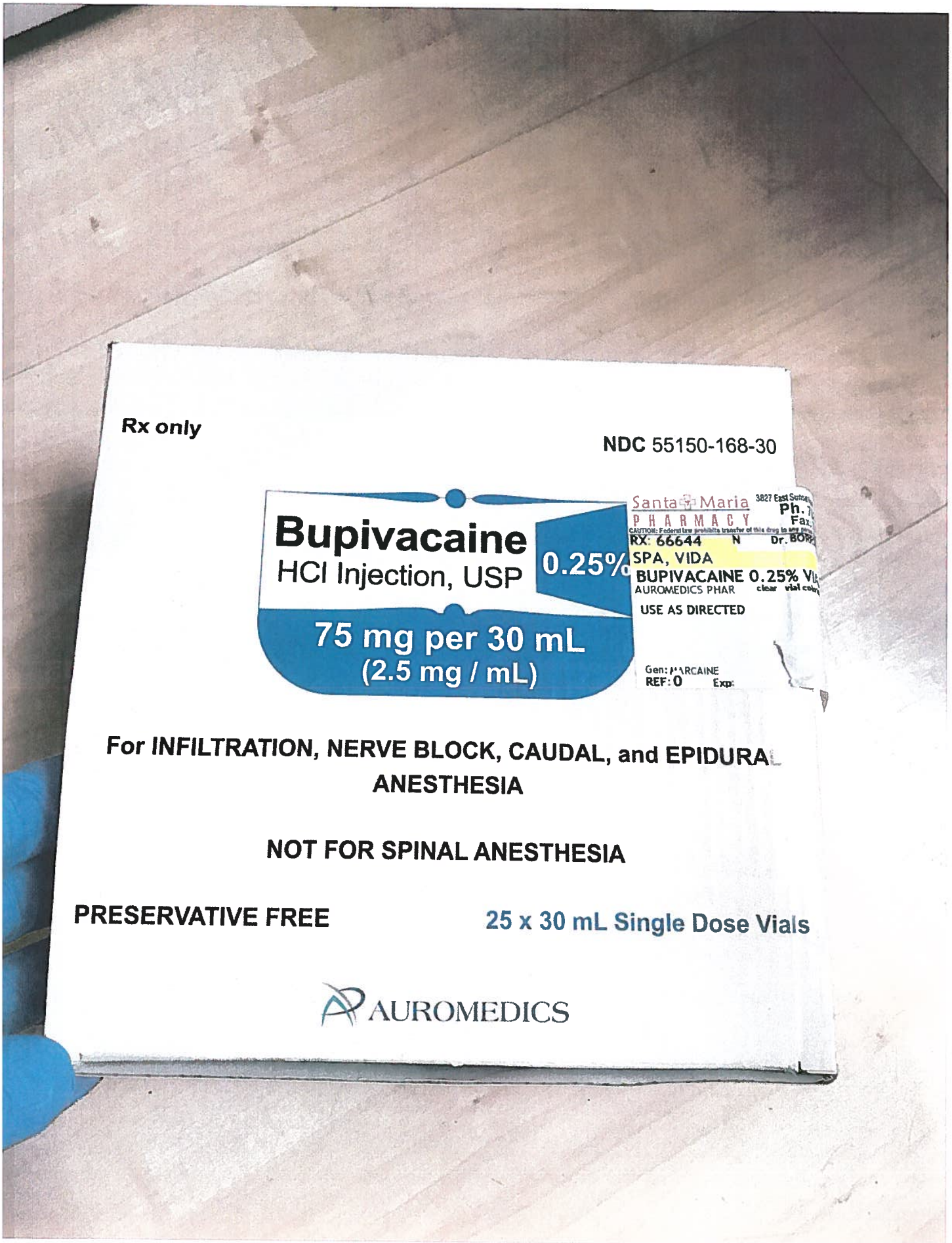
Each mL contains 0.1 mg of flumazenil compounded with 1.8 mg methylparaben, 0.2 mg propylparaben, 0.9% sodium chloride, 0.01% edetate disodium, and 0.01% acetic acid; the pH is adjusted to approximately 4 with hydrochloric acid and/or, if necessary, sodium hydroxide.

USUAL DOSAGE: See package insert.

Store at 25°C (77°F); excursions permitted to 15° to 30°C (59° to 86°F) [See USP Controlled Room Temperature].

N 3 01439 78410 4

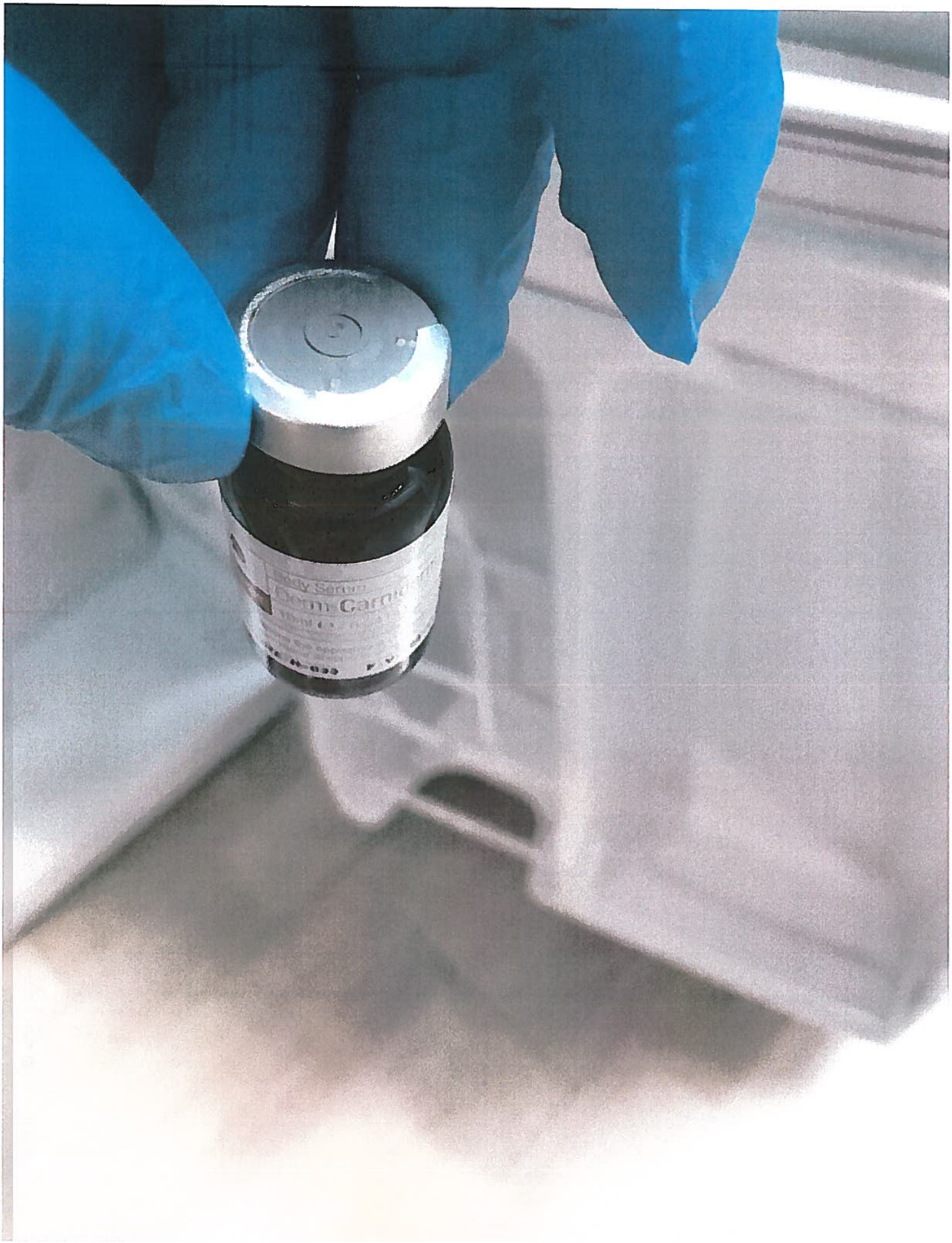

NDC 25021-608-20
25 x 20 mL Single-Patient Infusion Vials
PROPOFOL
Injectable Emulsion, USP
200 mg per 20 mL
(10 mg per mL)
Contains sodium metabisulfite, which inhibits microbial growth up to 12 hours.
Use strict aseptic technique.
Contamination can cause fever, infection/sepsis, and/or other life-threatening illness.
Single patient use.
Begin use promptly after opening. Discard within specified time limit. (See package insert.)
Do not use if contamination is suspected.
Rx only
Contains a Sulfite
FOR INTRAVENOUS ADMINISTRATION
Sterile, Nonpyrogenic
For Single-Patient Use Only
SAGENT®
Discover Injectables Excellence®


Rx only
NDC 55150-168-30
Bupivacaine
HCl Injection, USP
0.25%
75 mg per 30 mL
(2.5 mg / mL)
Santa Maria
PHARMACY
RX: 66644
SPA, VIDA
BUPIVACAINE 0.25%
AUROMEDICS PHAR
USE AS DIRECTED
REF: 0
For INFILTRATION, NERVE BLOCK, CAUDAL, and EPIDURAL ANESTHESIA
NOT FOR SPINAL ANESTHESIA
PRESERVATIVE FREE
25 x 30 mL Single Dose Vials
AUROMEDICS

NSBME 1162

Porcine Intestinal Mucosa
25°C (68° to 77°F) [See USP
Temperature].
ALL DRUGS OUT OF THE
CHILDREN
McKesson Corporation
APP5
BATCH:CHN180044
EXPIRY:SEP 2020

Body Serum
Derm Carniderm
10ml e / 0.34 Fl. Oz
LOTE: M-033
F.V.

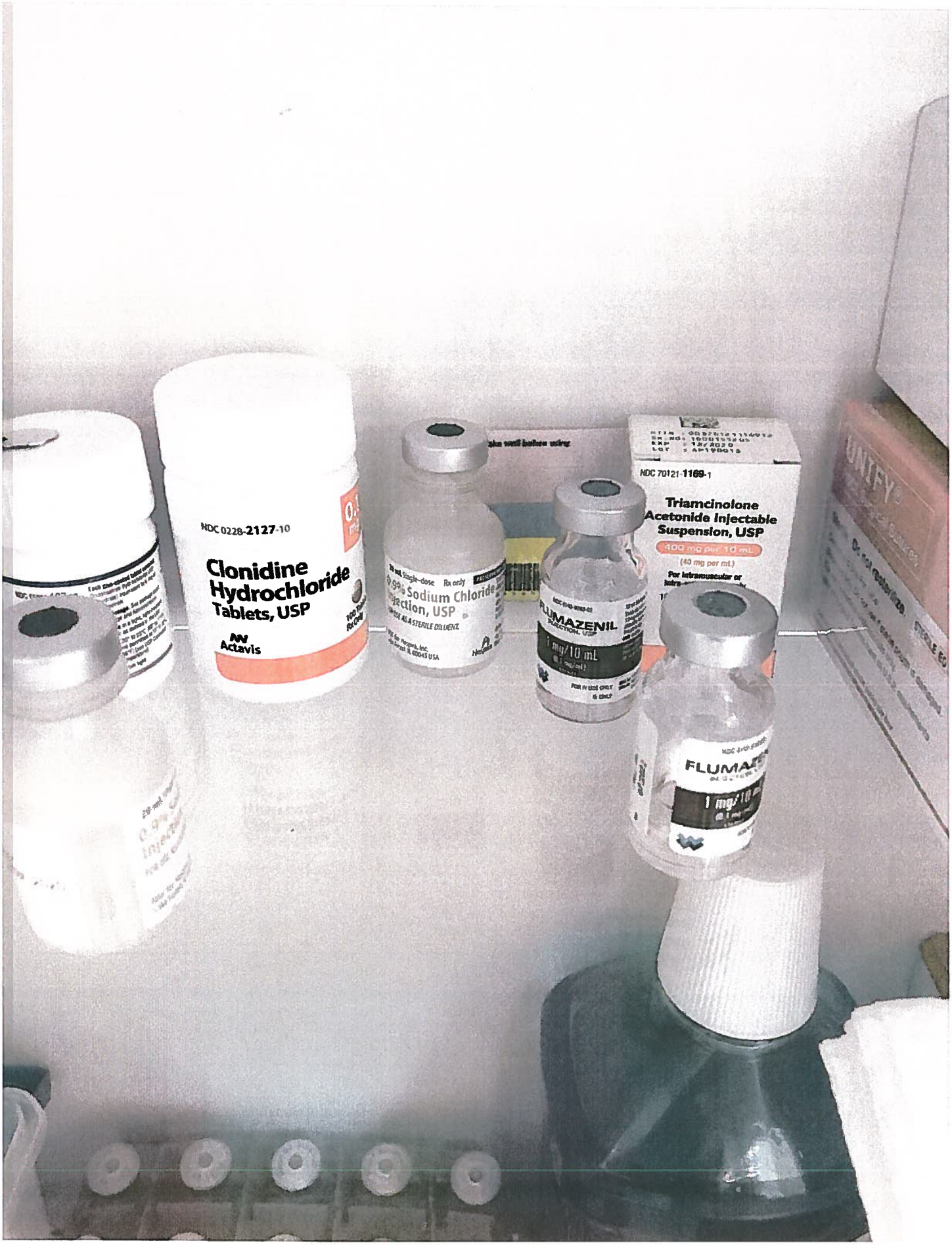


HANG FOLDERS

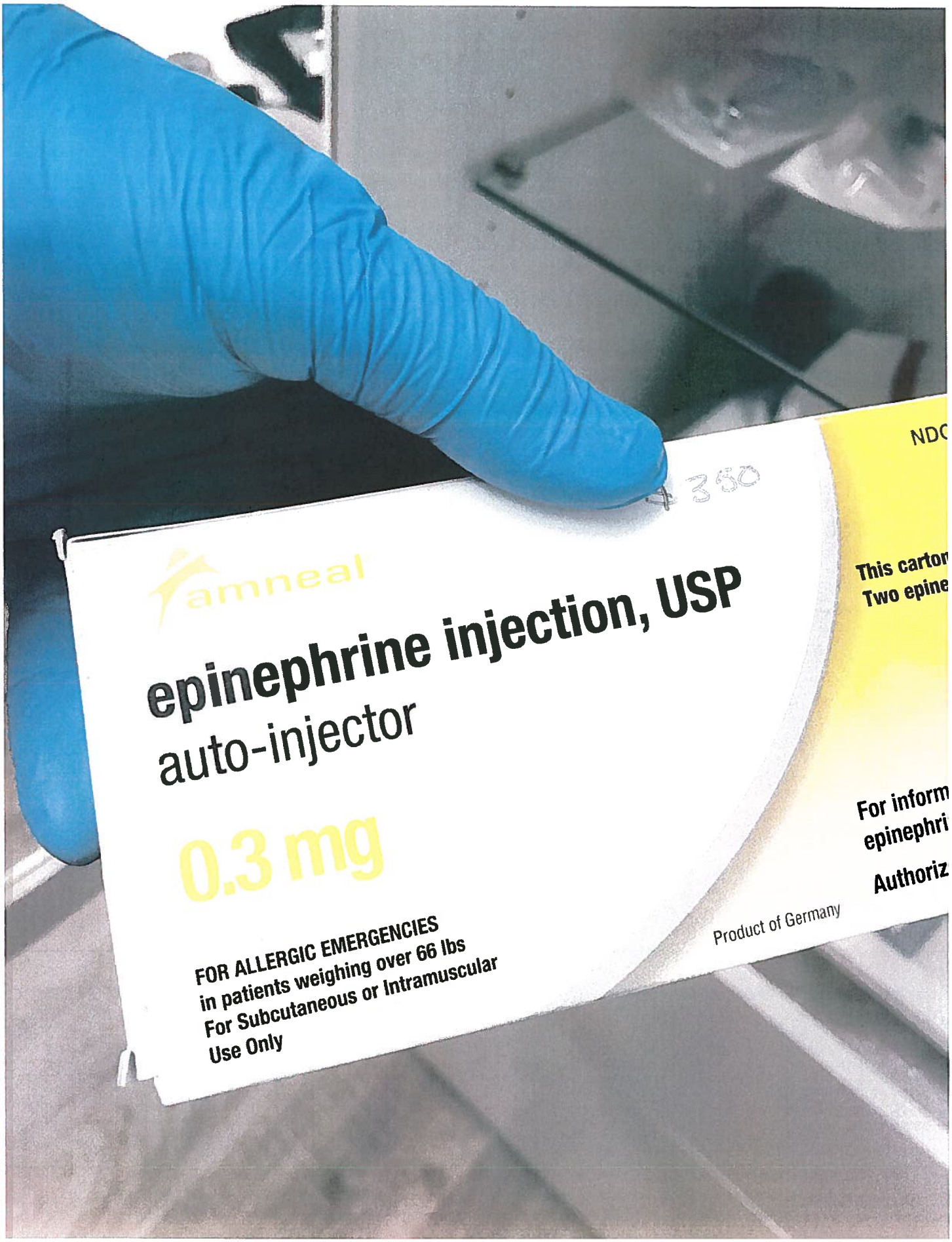
30G
LANCET
50支
结构及组成：
本品由钢针、塑柄和保护
三部分组成，钢针选用
S304(06Cr19Ni10)、
S304H(07Cr19Ni10)或
US304N1(06Cr19Ni10N)
不锈钢丝经平磨成型，塑柄
及保护帽选用聚乙烯制成。CE 0197
贮存条件：
本品应存储在避光防潮，无
腐蚀气体，通风良好的室内。
禁忌症：无

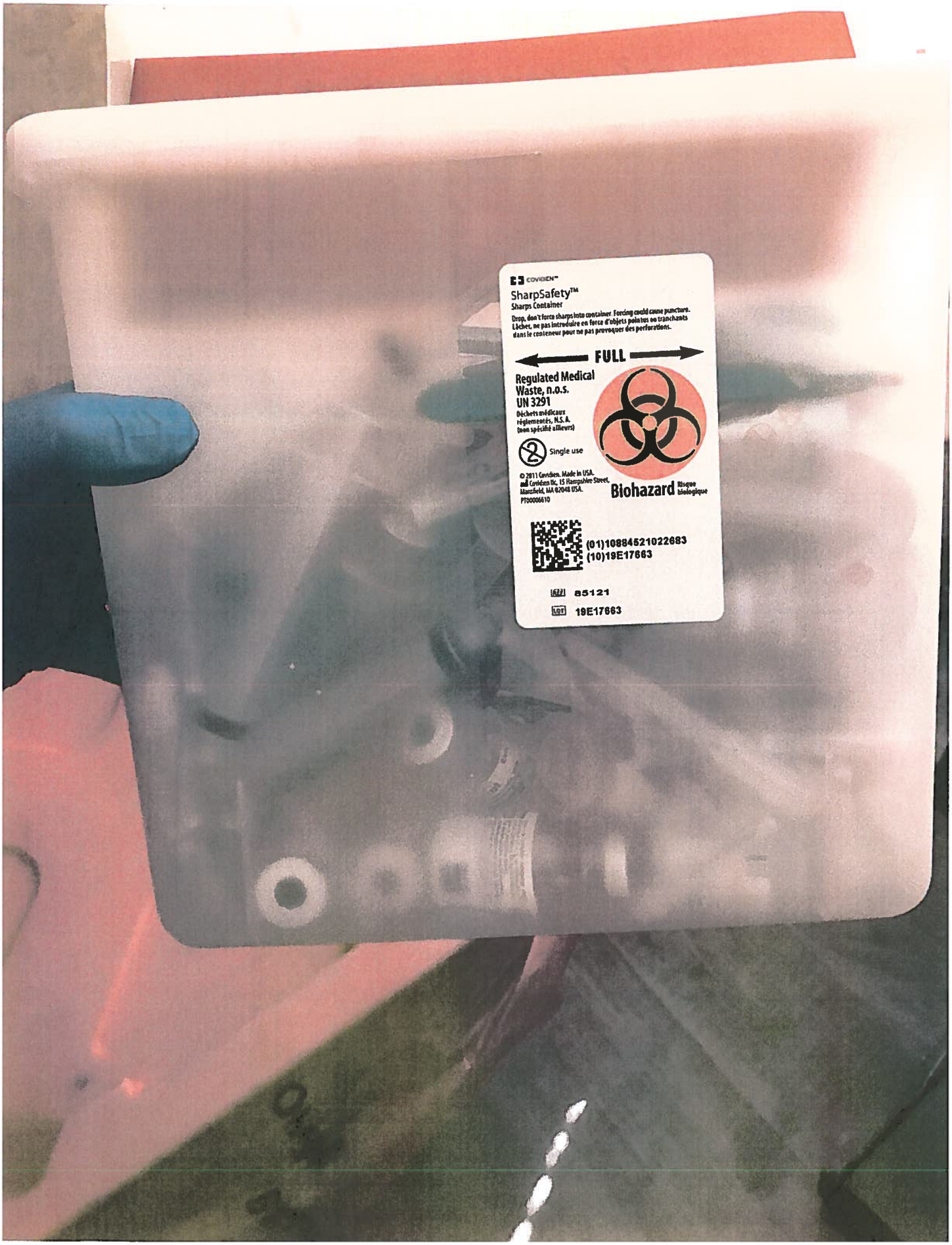
NSBME 1167

Gisselle
Platfoot
NEOSTIGMINE
10 MG/10 ML
VIAL
Inject 0.5ml
day
Cephalexin
USP
SODIUM
CHLORIDE
INJECTION, USP
CONCENTRATED
23.4% 4 mEq/mL
30 mL
Clonidine
Hydrochloride
Tablets, USP
0.1
6/25
McKESSON

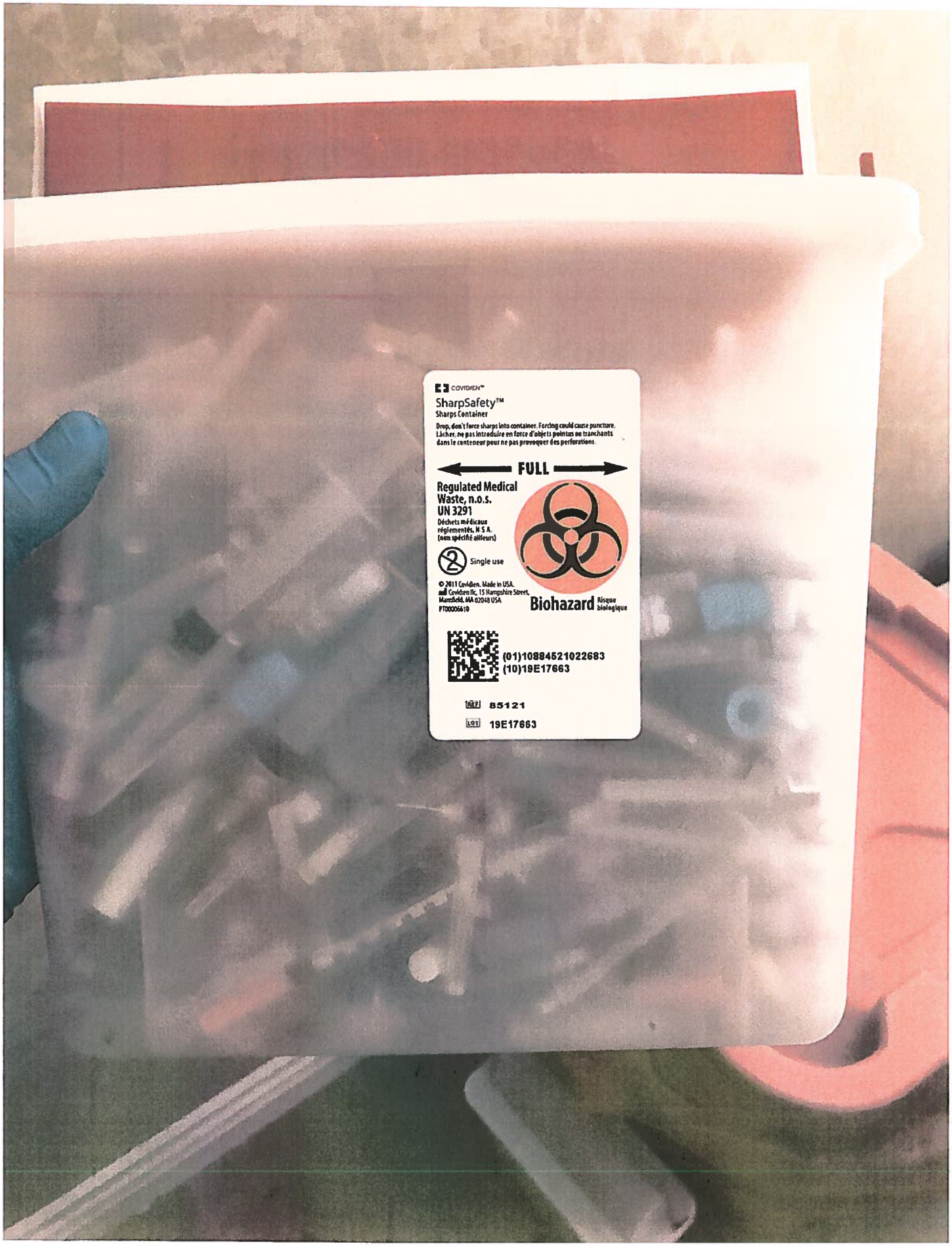

NDC 0228-2127-10
Clonidine Hydrochloride Tablets, USP
Actavis
NDC 70121-1169-1
Triamcinolone Acetonide Injectable Suspension, USP
40 mg per mL
Sodium Chloride
FLUMAZENIL
1 mg/10 mL

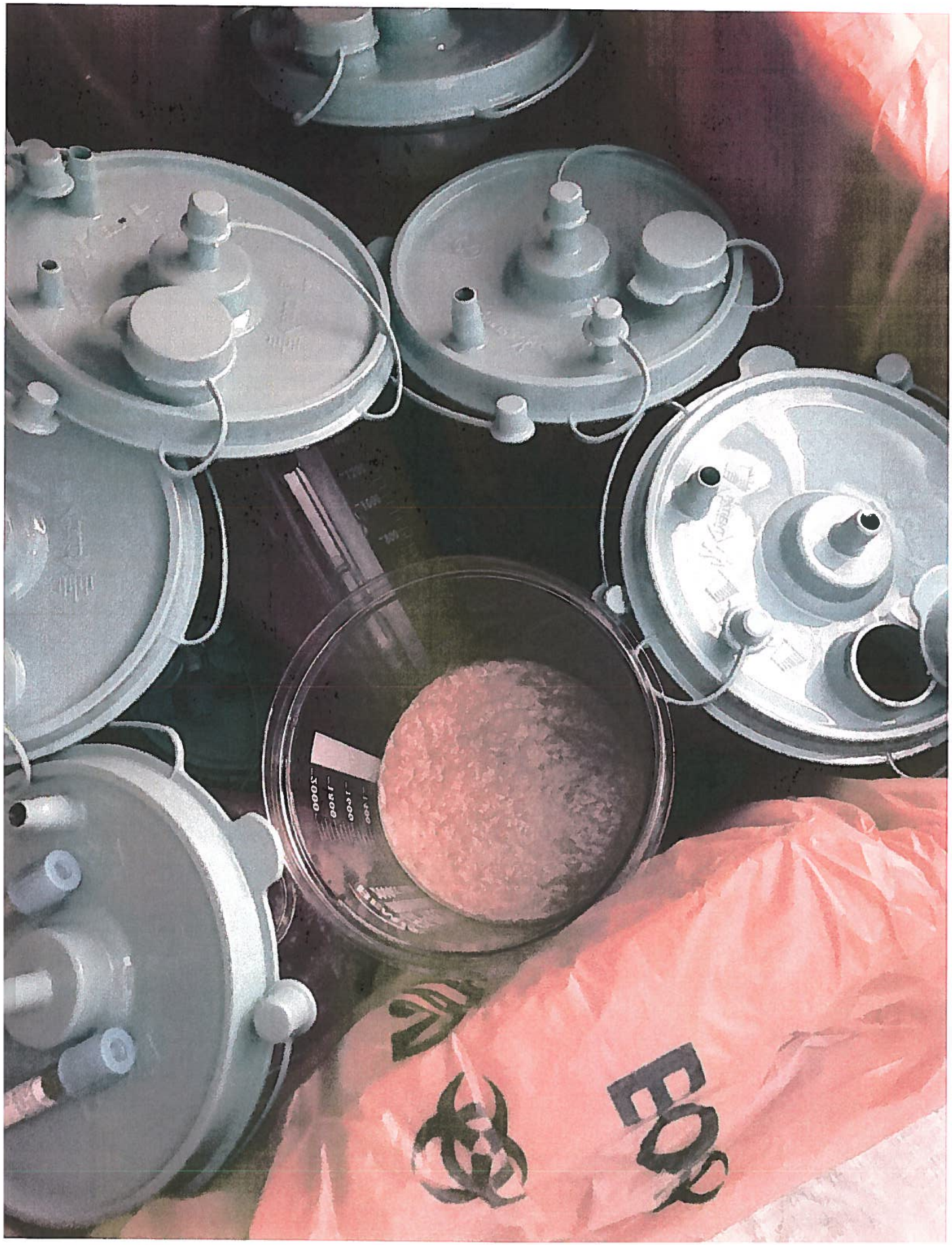
NEOSTIGMINE
Cephalexin
Capsules USP
6/25
4017246
6019078
02/22
63323-187-30
7/14/20
6/25
4017246
6019078
02/22
63323-187-30
McKESSON
Push-Button
Safety Lancets
28G NEEDLE


amneal
epinephrine injection, USP
auto-injector
0.3 mg
FOR ALLERGIC EMERGENCIES
in patients weighing over 66 lbs
For Subcutaneous or Intramuscular
Use Only
Product of Germany
360


COVIDIEN™
SharpSafety™
Sharps Container
Drop, don't force sharps into container. Forcing could cause puncture.
Lâcher, ne pas introduire en force d'objets pointus ou tranchants
dans le conteneur pour ne pas provoquer des perforations.
FULL
Regulated Medical
Waste, n.o.s.
UN 3291
Déchets médicaux
réglementés, N.S.A.
(non spécifié ailleurs)
Single use
© 2011 Covidien. Made in USA.
Covidien llc, 15 Hampshire Street,
Mansfield, MA 02048 USA.
PT00006610
Biohazard Risque biologique
(01)10884521022683
(10)19E17663
85121
19E17663

NSBME 1172


COVIDIEN™
SharpSafety™
Sharps Container
Drop, don't force sharps into container. Forcing could cause puncture.
Lâcher, ne pas introduire en force d'objets pointus ou tranchants dans le conteneur pour ne pas provoquer des perforations.
FULL
Regulated Medical Waste, n.o.s.
UN 3291
Déchets médicaux réglementés, N S A.
(non spécifié ailleurs)
Single use
© 2011 Covidien. Made in USA.
and Covidien llc, 15 Hampshire Street,
Mansfield, MA 02048 USA
PT00006610
Biohazard Risque biologique
(01)10884521022683
(10)19E17663
85121
19E17663



NSBME 1175

50 mL MULTIPLE-DOSE Flptop Vial
Rx only
NDC 0409-3182-03
Contains 25 of NDC 0409-3182-31
Lidocaine HCl 2% and Epinephrine
1:100,000 Injection, USP
Protect from light. Retain in carton until contents are used. Do not autoclave.
For Infiltration and Nerve Block.
NOT FOR EPIDURAL OR CAUDAL USE.
50 mL MULTIPLE-DOSE Flptop Vial
Rx only
NDC 0409-3182-03
Contains 25 of NDC 0409-3182-31
Lidocaine HCl 2% and Epinephrine
1:100,000 Injection, USP
Protect from light. Retain in carton until contents are used. Do not autoclave.
For Infiltration and Nerve Block.
NOT FOR EPIDURAL OR CAUDAL USE.
50 mL MULTIPLE-DOSE Flptop Vial
Rx only
NDC 0409-3182-03
Contains 25 of NDC 0409-3182-31
Lidocaine HCl 2% and Epinephrine
1:100,000 Injection, USP
Protect from light. Retain in carton until contents are used. Do not autoclave.
For Infiltration and Nerve Block.
NOT FOR EPIDURAL OR CAUDAL USE.

0.9% Sodium Chloride
Injection USP
REF L8002
NDC 0264-7800-20
DIN 01924303
HK 22617
CONTAINER
BIBRAUN
EXP 09/22 8 LOT JOLO

E8
LW
Scientific
POWER
TIMER
SPEED
500
Tray Sleeves

FOR EXTERNAL USE ONLY

STORE AT ROOM TEMPERATURE

KEEP OUT OF THE REACH OF CHILDREN

Caution: Federal law prohibits transfer of this drug to any other person than the patient for whom prescribed.

EmpowerRx PHARMACY

5980 W Sam Houston Pkwy N Ste 300
Houston, TX 77041 Phone (877) 562-8577
www.empowerpharmacy.com

KIARASH MIRKIA MD

TK2269952

Rx#90178112 N

VIDA SPA, LLC*

BLT (BENZO/LIDO/TETRA) (100 ML) 20/10/10% CREAM

EMPOWER

USE AS DIRECTED

2 BOTTLE Lot# 75517 Discard after 2/20/2021

RPh JBC No refills authorized 10/7/2020

EXHIBIT 53

EXHIBIT 53

The following attached invoices are all orders for Maryanne Phillips MD., through Vida Spa.

Direct Compounding and Outsourcing
1850 Whitney Mesa Drive, Suite 180
Henderson, NV 89014
702-877-0703
info@directcompounding.com

DIRECT

INVOICE

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 1489
DATE 06/29/2020
DUE DATE 07/29/2020
TERMS Net 30

ACTIVITY	QTY	RATE	AMOUNT
DRUG:PROPOFOL INJECTION EMULSION 10MG/ML PER ML	25	3.60	90.00

PAID

PAYMENT	90.00
BALANCE DUE	**$0.00**

Direct Compounding and Outsourcing
1850 Whitney Mesa Drive, Suite 180
Henderson, NV 89014
702-877-0703
info@directcompounding.com

DIRECT

INVOICE

BILL TO	SHIP TO	
VIDA MED SPA	VIDA MED SPA	**INVOICE #** 1569
3225 S. RAINBOW BLVD.	3225 S. RAINBOW BLVD.	**DATE** 07/16/2020
#107	#107	**DUE DATE** 08/15/2020
LAS VEGAS, NV 89146 US	LAS VEGAS, NV 89146 US	**TERMS** Net 30

ITEM	QTY	RATE	AMOUNT
DRUG/COMPOUND:POLIDOCANOL 5% 10ML VIAL Rx# I90000268	20	4.90	98.00
DRUG:PROPOFOL INJECTION EMULSION 10MG/ML PER ML	25	3.60	90.00

PAID

PAYMENT	188.00
BALANCE DUE	**$0.00**

Direct Compounding and Outsourcing
1850 Whitney Mesa Drive, Suite 180
Henderson, NV 89014
702-877-0703
info@directcompounding.com

DIRECT

INVOICE

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 1522
DATE 07/06/2020
DUE DATE 08/05/2020
TERMS Net 30

	QTY	RATE	AMOUNT
DRUG/COMPOUND:PHOSPHATIDYLCHOLINE 50MG/ML 50ML VIAL Rx# I90000262	2	37.50	75.00

PAID

PAYMENT	75.00
BALANCE DUE	**$0.00**

Direct Compounding and Outsourcing
1850 Whitney Mesa Drive, Suite 180
Henderson, NV 89014
702-877-0703
info@directcompounding.com

DIRECT compounding

INVOICE

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 1655
DATE 08/10/2020
DUE DATE 09/09/2020
TERMS Net 30

	QTY	RATE	AMOUNT
DRUG/COMPOUND:POLIDOCANOL 5% 10ML VIAL Rx# I90000288	20	4.90	98.00

PAID

PAYMENT	98.00
BALANCE DUE	**$0.00**

Direct Compounding and Outsourcing
1850 Whitney Mesa Drive, Suite 180
Henderson, NV 89014
702-877-0703
info@directcompounding.com

DIRECT
compounding

INVOICE

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 1694
DATE 08/20/2020
DUE DATE 09/19/2020
TERMS Net 30

ACTIVITY	QTY	RATE	AMOUNT
DRUG:PROPOFOL INJECTION EMULSION 10MG/ML PER ML	25	3.60	90.00

PAID

PAYMENT	90.00
BALANCE DUE	**$0.00**

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1850 Whitney Mesa Drive, Suite 180
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DIRECT compounding

INVOICE

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 1706
DATE 08/24/2020
DUE DATE 09/23/2020
TERMS Net 30

ACTIVITY	QTY	RATE	AMOUNT
DRUG:TRIAMCINOLONE ACE 40MG/ML 5ML VIAL	2	43.00	86.00

PAID

PAYMENT	86.00
BALANCE DUE	**$0.00**

Direct Compounding and Outsourcing
1850 Whitney Mesa Drive, Suite 180
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DIRECT compounding

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 1726
DATE 08/31/2020
DUE DATE 09/30/2020
TERMS Net 30

		RATE	AMOUNT
DRUG:PROPOFOL INJECTION EMULSION 10MG/ML PER ML	25	3.60	90.00

PAID

PAYMENT	90.00
BALANCE DUE	**$0.00**

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DIRECT

INVOICE

BILL TO	SHIP TO	
VIDA MED SPA	VIDA MED SPA	**INVOICE #** 1797
3225 S. RAINBOW BLVD.	3225 S. RAINBOW BLVD.	**DATE** 09/17/2020
#107	#107	**DUE DATE** 10/17/2020
LAS VEGAS, NV 89146 US	LAS VEGAS, NV 89146 US	**TERMS** Net 30

ACTIVITY	QTY	RATE	AMOUNT
DRUG:PROPOFOL INJECTION EMULSION 10MG/ML PER ML	25	3.60	90.00

PAID

PAYMENT	90.00
BALANCE DUE	**$0.00**

Direct Compounding and Outsourcing
1850 Whitney Mesa Drive, Suite 180
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DIRECT

INVOICE

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 1827
DATE 09/24/2020
DUE DATE 10/24/2020
TERMS Net 30

ACTIVITY	QTY	RATE	AMOUNT
DRUG:PROPOFOL INJECTION EMULSION 10MG/ML PER ML	50	3.60	180.00

PAID

PAYMENT	180.00
BALANCE DUE	**$0.00**

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702-877-0703
info@directcompounding.com

DIRECT

INVOICE

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 1907
DATE 10/19/2020
DUE DATE 11/18/2020
TERMS Net 30

ACTIVITY	QTY	RATE	AMOUNT
DRUG:PROPOFOL INJECTION EMULSION 10MG/ML PER ML	25	4.00	100.00

PAID

PAYMENT	100.00
BALANCE DUE	**$0.00**

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702-877-0703
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DIRECT

INVOICE

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 1916
DATE 10/21/2020
DUE DATE 11/20/2020
TERMS Net 30

	QTY	RATE	AMOUNT
DRUG/COMPOUND:PHOSPHATIDYLCHOLINE 50MG/ML 50ML VIAL Rx# I90000329	1	37.50	37.50

PAID

PAYMENT	37.50
BALANCE DUE	**$0.00**

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Henderson, NV 89014
702-877-0703
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DIRECT compounding

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 1931
DATE 10/27/2020
DUE DATE 11/26/2020
TERMS Net 30

ACTIVITY	QTY	RATE	AMOUNT
DRUG:PROPOFOL INJECTION EMULSION 10MG/ML PER ML	25	4.00	100.00

PAID

PAYMENT	100.00
BALANCE DUE	**$0.00**

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DIRECT

INVOICE

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 1943
DATE 10/29/2020
DUE DATE 11/28/2020
TERMS Net 30

ACTIVITY	QTY	RATE	AMOUNT
DRUG:PROPOFOL INJECTION EMULSION 10MG/ML PER ML	50	4.00	200.00

PAID

PAYMENT	200.00
BALANCE DUE	**$0.00**

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DIRECT compounding

INVOICE

BILL TO	SHIP TO	
VIDA MED SPA 3225 S. RAINBOW BLVD. #107 LAS VEGAS, NV 89146 US	VIDA MED SPA 3225 S. RAINBOW BLVD. #107 LAS VEGAS, NV 89146 US	**INVOICE #** 1956 **DATE** 11/02/2020 **DUE DATE** 12/02/2020 **TERMS** Net 30

	QTY	RATE	AMOUNT
DRUG/COMPOUND:POLIDOCANOL 5% 10ML VIAL Rx# I90000337	20	4.90	98.00

PAID

PAYMENT	98.00
BALANCE DUE	**$0.00**

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DIRECT

INVOICE

BILL TO	SHIP TO	
VIDA MED SPA	VIDA MED SPA	**INVOICE #** 2000
3225 S. RAINBOW BLVD.	3225 S. RAINBOW BLVD.	**DATE** 11/12/2020
#107	#107	**DUE DATE** 12/12/2020
LAS VEGAS, NV 89146 US	LAS VEGAS, NV 89146 US	**TERMS** Net 30

	QTY	RATE	AMOUNT
DRUG:PROPOFOL INJECTION EMULSION 10MG/ML PER ML	50	4.00	200.00
DRUG:CEFTRIAXONE 1 GM (10/BOX)	1	30.00	30.00
DRUG:KETOROLAC TROMETHAMINE 30MG/ML INJECTION, USP	50	1.80	90.00
DRUG:ONDANSETRON 2MG/ML 4ML SDV	25	0.60	15.00

PAID

PAYMENT	335.00
BALANCE DUE	**$0.00**

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DIRECT
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INVOICE

BILL TO	SHIP TO	
VIDA MED SPA	VIDA MED SPA	**INVOICE #** 2033
3225 S. RAINBOW BLVD.	3225 S. RAINBOW BLVD.	**DATE** 11/19/2020
#107	#107	**DUE DATE** 12/19/2020
LAS VEGAS, NV 89146 US	LAS VEGAS, NV 89146 US	**TERMS** Net 30

ACTIVITY	QTY	RATE	AMOUNT
DRUG:PROPOFOL INJECTION EMULSION 10MG/ML PER ML	50	4.00	200.00
DRUG:CEFTRIAXONE 1 GM (10/BOX)	2	30.00	60.00
DRUG:LIDOCAINE HCL (PF) 2% 20ML VIAL	25	2.60	65.00

PAID

PAYMENT	325.00
BALANCE DUE	**$0.00**

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DIRECT COMPOUNDING

INVOICE

BILL TO	SHIP TO	
VIDA MED SPA	VIDA MED SPA	**INVOICE #** 2079
3225 S. RAINBOW BLVD.	3225 S. RAINBOW BLVD.	**DATE** 12/03/2020
#107	#107	**DUE DATE** 01/02/2021
LAS VEGAS, NV 89146 US	LAS VEGAS, NV 89146 US	**TERMS** Net 30

		RATE	AMOUNT
DRUG:BUPIVICAINE HCL (PF) 0.25% 10ML VIAL SOLD AS 10ML VIAL	25	1.80	45.00
DRUG:PROPOFOL INJECTION EMULSION 10MG/ML PER ML	50	4.00	200.00

PAID

PAYMENT	245.00
BALANCE DUE	**$0.00**

Direct Compounding and Outsourcing
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DIRECT

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 2129
DATE 12/15/2020
DUE DATE 01/14/2021
TERMS Net 30

	QTY	RATE	AMOUNT
DRUG/COMPOUND:METHIO/INOS/CHOLINE/B12 25MG/50MG/25MG/1MG PER ML 6ML VIAL Rx# I90000385	18	3.3333333	60.00
DRUG:PREGNYL 10ML MDV VIAL	1	125.00	125.00

PAID

PAYMENT	185.00
BALANCE DUE	**$0.00**

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DIRECT compounding

INVOICE

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 2141
DATE 12/17/2020
DUE DATE 01/16/2021
TERMS Net 30

ACTIVITY		RATE	AMOUNT
DRUG:PROPOFOL INJECTION EMULSION 10MG/ML PER ML	50	4.00	200.00

PAID

PAYMENT	200.00
BALANCE DUE	**$0.00**

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DIRECT

INVOICE

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 2151
DATE 12/21/2020
DUE DATE 01/20/2021
TERMS Net 30

ACTIVITY	QTY	RATE	AMOUNT
DRUG:HYLENEX 150UNITS/ML (4X1ML)	1	250.00	250.00

PAID

PAYMENT	250.00
BALANCE DUE	**$0.00**

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DIRECT
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BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 2220
DATE 01/07/2021
DUE DATE 02/06/2021
TERMS Net 30

	QTY	RATE	AMOUNT
DRUG:PROPOFOL INJECTION EMULSION 10MG/ML PER ML	50	4.00	200.00
	PAYMENT		200.00
	BALANCE DUE		**$0.00**

PAID

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DIRECT

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 2245
DATE 01/12/2021
DUE DATE 02/11/2021
TERMS Net 30

ACTIVITY	QTY	RATE	AMOUNT
DRUG/COMPOUND:PHOSPHATIDYLCHOLINE 50MG/ML 50ML VIAL Rx# I90000400	1	37.50	37.50

PAID

PAYMENT	37.50
BALANCE DUE	**$0.00**

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702-877-0703
info@directcompounding.com

DIRECT

BILL TO	SHIP TO	
VIDA MED SPA	VIDA MED SPA	**INVOICE #** 2301
3225 S. RAINBOW BLVD.	3225 S. RAINBOW BLVD.	**DATE** 01/21/2021
#107	#107	**DUE DATE** 02/20/2021
LAS VEGAS, NV 89146 US	LAS VEGAS, NV 89146 US	**TERMS** Net 30

	QTY	RATE	AMOUNT
DRUG:PROPOFOL INJECTION EMULSION 10MG/ML PER ML	50	4.00	200.00
DRUG:LIDOCAINE HCl 2% AND EPINEPHRINE 1 TO 100,000 INJECTION, USP	20	3.00	60.00
DRUG/COMPOUND:METHIO/INOS/CHOLINE/ 1 25MG/50MG/25MG/1MG PER ML 6ML VIAL Rx# I90000408	18	3.3333333	60.00
DRUG:KETOROLAC TROMETHAMINE 30MG/ML INJ - (25VIALS/2ML EACH) SOLD EACH	50	2.40	120.00
DRUG:ONDANSETRON 2MG/ML 4ML SDV	25	0.60	15.00

PAID

PAYMENT	455.00
BALANCE DUE	**$0.00**

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1850 Whitney Mesa Drive, Suite 180
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DIRECT

INVOICE

BILL TO	SHIP TO	
VIDA MED SPA 3225 S. RAINBOW BLVD. #107 LAS VEGAS, NV 89146 US	VIDA MED SPA 3225 S. RAINBOW BLVD. #107 LAS VEGAS, NV 89146 US	**INVOICE #** 2348 **DATE** 02/01/2021 **DUE DATE** 03/03/2021 **TERMS** Net 30

	QTY	RATE	AMOUNT
DRUG/COMPOUND:POLIDOCANOL 5% 10ML VIAL Rx# I9000419	10	4.90	49.00

PAID

PAYMENT	49.00
BALANCE DUE	**$0.00**

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DIRECT

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 2404
DATE 02/15/2021
DUE DATE 03/17/2021
TERMS Net 30

	QTY	RATE	AMOUNT
DRUG/COMPOUND:METHIO/INOS/CHOLINE/B12 25MG/50MG/25MG/1MG PER ML 6ML VIAL Rx# I90000425	12	3.3333333	40.00

PAID

PAYMENT	40.00
BALANCE DUE	**$0.00**

Direct Compounding and Outsourcing
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702-877-0703
info@directcompounding.com

DIRECT

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 2460b
DATE 03/15/2021
DUE DATE 04/14/2021
TERMS Net 30

		RATE	
DRUG/COMPOUND:POLIDOCANOL 5% 10ML VIAL Rx# I90000451	10	4.90	49.00
DRUG/COMPOUND:METHIO/INOS/CHOLINE/B12 25MG/50MG/25MG/1MG PER ML 6ML VIAL Rx# I90000452	12	3.3333333	40.00

PAID

PAYMENT	89.00
BALANCE DUE	**$0.00**

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1850 Whitney Mesa Drive, Suite 180
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702-877-0703
info@directcompounding.com

DIRECT

INVOICE

BILL TO	SHIP TO	
VIDA MED SPA	VIDA MED SPA	**INVOICE #** 2507
3225 S. RAINBOW BLVD.	3225 S. RAINBOW BLVD.	**DATE** 03/08/2021
#107	#107	**DUE DATE** 04/07/2021
LAS VEGAS, NV 89146 US	LAS VEGAS, NV 89146 US	**TERMS** Net 30

ACTIVITY	QTY	RATE	AMOUNT
DRUG:CEFTRIAXONE 1 GM (10/BOX)	4	30.00	120.00

PAID

PAYMENT	120.00
BALANCE DUE	**$0.00**

Direct Compounding and Outsourcing
1850 Whitney Mesa Drive, Suite 180
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info@directcompounding.com

DIRECT

INVOICE

BILL TO	SHIP TO	
VIDA MED SPA 3225 S. RAINBOW BLVD. #107 LAS VEGAS, NV 89146 US	VIDA MED SPA 3225 S. RAINBOW BLVD. #107 LAS VEGAS, NV 89146 US	**INVOICE #** 2478b **DATE** 03/19/2021 **DUE DATE** 04/18/2021 **TERMS** Net 30

ACTIVITY		RATE	AMOUNT
DRUG:SODIUM BICARBONATE 8.4% INJECTION (25x50ML)	1	300.00	300.00

PAID

PAYMENT	300.00
BALANCE DUE	**$0.00**

Direct Compounding and Outsourcing
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Henderson, NV 89014
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DIRECT
COMPOUNDING

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 2492b
DATE 03/22/2021
DUE DATE 04/21/2021
TERMS Net 30

	QTY	RATE	AMOUNT
DRUG/COMPOUND:METHIO/INOS/CHOLINE/B12 25MG/50MG/25MG/1MG PER ML 6ML VIAL Rx# I90000459	1	3.3333333	60.00

PAID

PAYMENT	60.00
BALANCE DUE	**$0.00**

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DIRECT

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 3368
DATE 05/27/2021
DUE DATE 06/26/2021
TERMS Net 30

ACTIVITY	QTY	RATE	AMOUNT
DRUG:PROPOFOL INJECTION EMULSION 10MG/ML PER ML	50	4.00	200.00
DRUG:CEFTRIAXONE 1 GM (10/BOX)	2	30.00	60.00
DRUG:KETOROLAC TROMETHAMINE 30MG/ML INJ - (25VIALS/2ML EACH) SOLD EACH	50	2.40	120.00

PAID

PAYMENT	380.00
BALANCE DUE	**$0.00**

Direct Compounding and Outsourcing
1850 Whitney Mesa Drive, Suite 180
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702-877-0703
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DIRECT

Invoice

BILL TO	SHIP TO	
VIDA MED SPA 3225 S. RAINBOW BLVD. #107 LAS VEGAS, NV 89146 US	VIDA MED SPA 3225 S. RAINBOW BLVD. #107 LAS VEGAS, NV 89146 US	**INVOICE #** 3339 **DATE** 05/21/2021 **DUE DATE** 06/20/2021 **TERMS** Net 30

		RATE	AMOUNT
DRUG/COMPOUND:POLIDOCANOL 5% 10ML VIAL Rx# I90000520	20	5.00	100.00

PAID

PAYMENT	100.00
BALANCE DUE	**$0.00**

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DIRECT

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 3305
DATE 05/17/2021
DUE DATE 06/16/2021
TERMS Net 30

ACTIVITY	QTY	RATE	AMOUNT
DRUG:PROPOFOL INJECTION EMULSION 10MG/ML PER ML	50	4.00	200.00

PAID

PAYMENT	200.00
BALANCE DUE	**$0.00**

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DIRECT

INVOICE

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 3306
DATE 05/17/2021
DUE DATE 06/16/2021
TERMS Net 30

ACTIVITY	QTY	RATE	AMOUNT
DRUG/COMPOUND:METHIO/INOS/CHOLINE/B12 25MG/50MG/25MG/1MG PER ML 6ML VIAL Rx# I90000510	24	3.3333333	80.00

PAID

PAYMENT	80.00
BALANCE DUE	**$0.00**

Direct Compounding and Outsourcing
1850 Whitney Mesa Drive, Suite 180
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info@directcompounding.com

DIRECT

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 3291
DATE 05/13/2021
DUE DATE 06/12/2021
TERMS Net 30

ACTIVITY		RATE	AMOUNT
DRUG:CEFTRIAXONE 1 GM (10/BOX)	2	30.00	60.00
DRUG/COMPOUND:POLIDOCANOL 5% 10ML VIAL	20	4.90	98.00
Rx# I90000508			

PAID

PAYMENT	158.00
BALANCE DUE	**$0.00**

Direct Compounding and Outsourcing
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DIRECT

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 3269
DATE 05/10/2021
DUE DATE 06/09/2021
TERMS Net 30

ACTIVITY	QTY	RATE	AMOUNT
DRUG:PROPOFOL INJECTION EMULSION 10MG/ML PER ML	25	4.00	100.00

PAID

PAYMENT	100.00
BALANCE DUE	**$0.00**

Direct Compounding and Outsourcing
1850 Whitney Mesa Drive, Suite 180
Henderson, NV 89014
702-877-0703
info@directcompounding.com

DIRECT

INVOICE

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 3247
DATE 05/06/2021
DUE DATE 06/05/2021
TERMS Net 30

ACTIVITY	QTY	RATE	AMOUNT
DRUG:PROPOFOL INJECTION EMULSION 10MG/ML PER ML	50	4.00	200.00

PAID

PAYMENT	200.00
BALANCE DUE	**$0.00**

Direct Compounding and Outsourcing
1850 Whitney Mesa Drive, Suite 180
Henderson, NV 89014
702-877-0703
info@directcompounding.com

DIRECT

BILL TO	SHIP TO	
VIDA MED SPA	VIDA MED SPA	**INVOICE #** 3189
3225 S. RAINBOW BLVD.	3225 S. RAINBOW BLVD.	**DATE** 04/28/2021
#107	#107	**DUE DATE** 05/28/2021
LAS VEGAS, NV 89146 US	LAS VEGAS, NV 89146 US	**TERMS** Net 30

	QTY	RATE	AMOUNT
DRUG/COMPOUND:METHIO/INOS/CHOLINE/B12 25MG/50MG/25MG/1MG PER ML 6ML VIAL Rx# I90000497	18	3.3333333	60.00
DRUG:PROPOFOL INJECTION EMULSION 10MG/ML PER ML	50	4.00	200.00

PAID

PAYMENT	260.00
BALANCE DUE	**$0.00**

Direct Compounding and Outsourcing
1850 Whitney Mesa Drive, Suite 180
Henderson, NV 89014
702-877-0703
info@directcompounding.com

DIRECT

BILL TO	**SHIP TO**	
VIDA MED SPA	VIDA MED SPA	**INVOICE #** 3083
3225 S. RAINBOW BLVD.	3225 S. RAINBOW BLVD.	**DATE** 04/12/2021
#107	#107	**DUE DATE** 05/12/2021
LAS VEGAS, NV 89146 US	LAS VEGAS, NV 89146 US	**TERMS** Net 30

ACTIVITY	QTY	RATE	AMOUNT
DRUG:HYLENEX 150UNITS/ML (4X1ML)	1	291.70	291.70
	PAYMENT		291.70
	BALANCE DUE		**$0.00**

PAID

Direct Compounding and Outsourcing
1850 Whitney Mesa Drive, Suite 180
Henderson, NV 89014
702-877-0703
info@directcompounding.com

DIRECT

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 3072
DATE 04/08/2021
DUE DATE 05/08/2021
TERMS Net 30

ACTIVITY	QTY	RATE	AMOUNT
DRUG:PROPOFOL INJECTION EMULSION 10MG/ML PER ML	25	4.00	100.00

PAID

PAYMENT	100.00
BALANCE DUE	**$0.00**

Direct Compounding and Outsourcing
1850 Whitney Mesa Drive, Suite 180
Henderson, NV 89014
702-877-0703
info@directcompounding.com

DIRECT

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 3031
DATE 04/01/2021
DUE DATE 05/01/2021
TERMS Net 30

ACTIVITY		RATE	AMOUNT
DRUG:PROPOFOL INJECTION EMULSION 10MG/ML PER ML	25	4.00	100.00

PAID

PAYMENT	100.00
BALANCE DUE	**$0.00**

Direct Compounding and Outsourcing
1850 Whitney Mesa Drive, Suite 180
Henderson, NV 89014
702-877-0703
info@directcompounding.com

DIRECT compounding

INVOICE

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 2517b
DATE 03/25/2021
DUE DATE 04/24/2021
TERMS Net 30

ACTIVITY	QTY	RATE	AMOUNT
DRUG/COMPOUND:POLIDOCANOL 5% 10ML VIAL Rx# I90000462	20	4.90	98.00

PAID

PAYMENT	98.00
BALANCE DUE	**$0.00**

Direct Compounding and Outsourcing
1850 Whitney Mesa Drive, Suite 180
Henderson, NV 89014
702-877-0703
info@directcompounding.com

DIRECT
COMPOUNDING

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 2514b
DATE 03/25/2021
DUE DATE 04/24/2021
TERMS Net 30

ACTIVITY		RATE	AMOUNT
DRUG:ONDANSETRON 2MG/ML 4ML SDV	50	0.50	25.00
DRUG:KETOROLAC TROMETHAMINE 30MG/ML INJ - (25VIALS/2ML EACH) SOLD EACH	50	2.40	120.00
DRUG:PROPOFOL INJECTION EMULSION 10MG/ML PER ML	25	4.00	100.00

PAID

PAYMENT	245.00
BALANCE DUE	**$0.00**

Direct Compounding and Outsourcing
1850 Whitney Mesa Drive, Suite 180
Henderson, NV 89014
702-877-0703
info@directcompounding.com

DIRECT

INVOICE

BILL TO	SHIP TO	
VIDA MED SPA	VIDA MED SPA	**INVOICE #** 3401
3225 S. RAINBOW BLVD.	3225 S. RAINBOW BLVD.	**DATE** 06/03/2021
#107	#107	**DUE DATE** 07/03/2021
LAS VEGAS, NV 89146 US	LAS VEGAS, NV 89146 US	**TERMS** Net 30

ACTIVITY	QTY	RATE	AMOUNT
DRUG:PROPOFOL INJECTION EMULSION 10MG/ML PER ML	50	4.00	200.00

PAID

PAYMENT	200.00
BALANCE DUE	**$0.00**

Direct Compounding and Outsourcing
1850 Whitney Mesa Drive, Suite 180
Henderson, NV 89014
702-877-0703
info@directcompounding.com

DIRECT

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 3423
DATE 06/07/2021
DUE DATE 07/07/2021
TERMS Net 30

	QTY	RATE	AMOUNT
DRUG/COMPOUND:METHIO/INOS/CHOLINE/B12 25MG/50MG/25MG/1MG PER ML 6ML VIAL Rx# I90000522	18	4.1666667	75.00
DRUG:PROPOFOL INJECTION EMULSION 10MG/ML PER ML	50	4.00	200.00

PAID

PAYMENT	275.00
BALANCE DUE	**$0.00**

Direct Compounding and Outsourcing
1850 Whitney Mesa Drive, Suite 180
Henderson, NV 89014
702-877-0703
info@directcompounding.com

DIRECT

BILL TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

SHIP TO
VIDA MED SPA
3225 S. RAINBOW BLVD.
#107
LAS VEGAS, NV 89146 US

INVOICE # 3478
DATE 06/17/2021
DUE DATE 07/17/2021
TERMS Net 30

ACTIVITY		RATE	AMOUNT
DRUG:PROPOFOL INJECTION EMULSION 10MG/ML PER ML	50	4.00	200.00

PAID

PAYMENT	200.00
BALANCE DUE	**$0.00**

Direct Compounding and Outsourcing
1850 Whitney Mesa Drive, Suite 180
Henderson, NV 89014
702-877-0703
info@directcompounding.com

DIRECT

INVOICE

BILL TO	SHIP TO	
VIDA MED SPA 3225 S. RAINBOW BLVD. #107 LAS VEGAS, NV 89146 US	VIDA MED SPA 3225 S. RAINBOW BLVD. #107 LAS VEGAS, NV 89146 US	**INVOICE #** 3508 **DATE** 06/24/2021 **DUE DATE** 07/24/2021 **TERMS** Net 30

	QTY	RATE	AMOUNT
DRUG/COMPOUND:METHIO/INOS/CHOLINE/B12 25MG/50MG/25MG/1MG PER ML 6ML VIAL Rx# I90000542	18	4.1666667	75.00
DRUG:PROPOFOL INJECTION EMULSION 10MG/ML PER ML	50	4.00	200.00

PAID

PAYMENT	275.00
BALANCE DUE	**$0.00**

EXHIBIT 54

EXHIBIT 54

Meg Byrd

From: Donald K. White
Sent: Wednesday, July 28, 2021 9:21 AM
To: Meg Byrd
Subject: FW: SECURE: McKesson Medical Surgical Inc.'s Response re: Maryanne Phillips M.D - Vida Spa Case no: 20-19721
Attachments: 2021.07.20_McKesson Confidental_Vida Spa_NV Board of Medical Examiners_1.1.2019-7.9.2021.xlsx

For the legal file.

Donald K. White, J.D.
Deputy General Counsel
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, NV 89521
775.324.9355
dwhite@medboard.nv.gov

Notice of Confidentiality: The information transmitted is intended only for the person or entity to whom it is addressed and may contain confidential and/or privileged material. Review, retransmission, or dissemination of this information by anyone other than the intended recipient is not authorized. If not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

From: Kim A. Friedman
Sent: Tuesday, July 27, 2021 11:39 AM
To: Aaron B. Fricke <africke@medboard.nv.gov>; Donald K. White <dwhite@medboard.nv.gov>
Subject: FW: SECURE: McKesson Medical Surgical Inc.'s Response re: Maryanne Phillips M.D - Vida Spa Case no: 20-19721

Results from McKesson. Will add to case file.

Thanks!
-Kim

From: Johnson, Krista [mailto:Krista.Johnson@McKesson.com]
Sent: Friday, July 23, 2021 12:58 PM
To: Kim A. Friedman <kfriedman@medboard.nv.gov>
Cc: Billington, Sharon <Sharon.Billington@McKesson.com>; Scuffil, Theresa <Theresa.Scuffil@McKesson.com>
Subject: SECURE: McKesson Medical Surgical Inc.'s Response re: Maryanne Phillips M.D - Vida Spa Case no: 20-19721

Dear Investigator Friedman,

McKesson Medical-Surgical Inc. is in receipt of the subpoena seeking records regarding purchases made by Vida Spa and Maryanne Phillips, M.D. (Account No. 62896209) for the time period January 1, 2019 to July 9, 2021. Please see the attached file that contains all sales transactions conducted by Vida Spa and Maryanne Phillips, M.D. for the requested time period.

These documents and any attachments are produced for the sole purpose of complying with the Nevada Board of Medical Examiners Investigative Committee request(s) and are only for the use of its intended recipients. The records

and/or information provided are McKesson's commercial and trade secret information, and may contain other confidential, proprietary and/or privileged business information of McKesson Corporation or its affiliates, all of which is exempt from public disclosures under FOIA. Any unauthorized review, use, disclosure or distribution is prohibited and you may not disclose any portion of this production to any third party without McKesson's express written consent. Subject only to data entry errors the records are true and correct and were made at or near the time of transaction.

If you have any questions or require further information, please contact me directly.

Thanks!

Krista Johnson
Legal Specialist, GCO – Litigation
McKesson | 6535 N. State Highway 161, Irving, TX 75039 | www.mckesson.com
Office : 972.830.3663
Cell: 469.765.6880
Fax: 210.451.4775

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EXHIBIT 55

EXHIBIT 55

MEDICAL RECORDS

This exhibit contains personal medical information, records of a patient or other personal identifying information that is confidential and otherwise protected from disclosure to the public pursuant to NRS 622.310.

EXHIBIT 56

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EXHIBIT 74

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EXHIBIT 75

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EXHIBIT 76

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EXHIBIT 77

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EXHIBIT 80

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EXHIBIT 81

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EXHIBIT 82

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EXHIBIT 84

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EXHIBIT 85

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EXHIBIT 86

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EXHIBIT 87

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EXHIBIT 89

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EXHIBIT 90

EXHIBIT 90

Before the Board of Medical Examiners of the State of Nevada
Investigative Committee

* * * * *

In the Matter of the Investigation of:	)	
	)	
	)	Case No. 20-19721
Maryanne Phillips, M.D.	)	
	)	
License No. 7635	)	
	)	

SUBPOENA DUCES TECUM

The Investigative Committee of the Board of Medical Examiners of the State of Nevada sends greetings to:

Vida Spa, LLC
Or Authorized Representative
3255 S. Rainbow Blvd., #107
Las Vegas, NV 89146

Pursuant to the authority of NRS 630.140(1), **WE COMMAND YOU,** that all singular, business and excuses being set aside; you shall produce and deliver to the Nevada State Board of Medical Examiners, the materials as set forth in this Subpoena Duces Tecum:

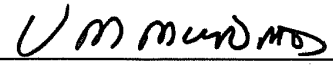
1. Properly authenticated and complete copies of any and all health care records of all 72 patients listed on the sedation log sheet attached as exhibit 1.

Said records shall be provided to an investigator of the Nevada State Board of Medical Examiners **within 5 days of service** of this subpoena delivered to The Nevada State Board of Medical Examiners located at 325 E. Warm Springs Road, Suite 225, Las Vegas, NV 89119. Failure to comply and produce said records in the aforesaid manner may subject you to possible disciplinary action, to include NRS 630.3065(2)(a); further the Investigative Committee may seek relief as provided in NRS 630.140(3).

Additionally, compliance with this subpoena is deemed compulsory and shall not be deemed to be cooperation subject to the protections provided to a physician pursuant to NRS 630.364(3).

Dated this 25th day of June, 2021.

NEVADA STATE BOARD OF MEDICAL EXAMINERS
INVESTIGATIVE COMMITTEE



Victor M. Muro, M.D., Chairman
Nevada State Board of Medical Examiners
Investigative Committee

//

//

NEVADA RULES OF CIVIL PROCEDURE, RULE 45(c) AND 45(d)

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENA.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, the court may, to protect a person subject to or affected by the subpoena, quash

or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

EXHIBIT 1

MEDICAL RECORDS

This exhibit contains personal medical information, records of a patient or other personal identifying information that is confidential and otherwise protected from disclosure to the public pursuant to NRS 622.310.

Nevada State Board of Medical Examiners

Affidavit of Service

I, Kim Friedman, Sr. Investigator for the Nevada State Board of Medical Examiners, received the following documents on June 25th, 2021, for personal service on Vida Spa, LLC.

1. _____Complaint and Notice of Hearing and Pre Hearing
2. _____Summary Suspension
3. _____ Order for Psychiatric Examination
4. __X_ Subpoena Duces Tecum

I was able to serve process on respondent, by hand delivering a copy of the above document, on June 25th, 2021, to Giselle Platfoot at Vida Spa, LLC located at 3255 S. Rainbow Blvd., #107, Las Vegas, NV 89146.

Signed this 17th day of August, 2021.
Under Penalty of Perjury:

Kimberly Friedman

COUNTY OF CLARK
STATE OF NEVADA

SUBSCRIBED and SWORN to before me
This 17th day of August, 2021

Notary Public

MARILYN TORRES
Notary Public, State of Nevada
No. 17-2923-1
My Appt. Exp. June 21, 2025

EXHIBIT 91

EXHIBIT 91

EXHIBIT 92

Video

Dr. Phillips Interview

EXHIBIT 92

EXHIBIT 93

Video

Dr. Phillips Chin Liposuction

EXHIBIT 93

MEDICAL RECORDS

This exhibit contains personal medical information, records of a patient or other personal identifying information that is confidential and otherwise protected from disclosure to the public pursuant to NRS 622.310.

EXHIBIT 94

Video

Dr. Phillips After Chin Liposuction

EXHIBIT 94

MEDICAL RECORDS

This exhibit contains personal medical information, records of a patient or other personal identifying information that is confidential and otherwise protected from disclosure to the public pursuant to NRS 622.310.

EXHIBIT 95

Video

Dr. Phillips and Nurse re: Liposuction Specials

EXHIBIT 95

LAW OFFICES OF
LYN E. BEGGS
PLLC

July 14, 2021

VIA E-mail Only

Aaron Fricke, Deputy General Counsel: africke@medboard.nv.gov

Don White, Deputy General Counsel: dwhite@medboard.nv.gov

Re: Maryanne Phillips, M.D.

Dear Mr. Fricke and Mr. White:

Please accept this letter as formal notification that effective immediately, I will no longer be representing Dr. Maryanne Phillips in any matters currently pending before the Nevada State Board of Medical Examiners, including any pending investigations.

At this time, I am unaware of whether Dr. Phillips has retained counsel to assist her in the currently pending matters, however I am of the understanding that she is still represented by Mr. Leo Flangas solely in regard to compliance with the settlement agreement in BME case 18-10032-1.

Should you require any further information, please do not hesitate to contact me.

Very truly yours,

Lyn E. Beggs, Esq.

M 316 California Ave #863 • Reno Nevada 89509 P 775.432.1918 F 775.473.3801 E lyn@lbeggslaw.com

EXHIBIT 96

EXHIBIT 96

Nevada State Board of Medical Examiners

Affidavit of Service

I, Kim Friedman, Sr. Investigator for the Nevada State Board of Medical Examiners, received the following documents on June 28, 2021, for personal service on Direct Compounding and Outsourcing LLC.

1. _____Complaint and Notice of Hearing and Pre Hearing
2. _____Summary Suspension
3. _____ Order for Substance Abuse Evaluation
4. __X__ Subpoena Duces Tecum

I was unable to serve process personally on respondent, but faxed a copy to (702) 342-0335, attention Pharmacy Manager for respondent Direct Compounding and Outsourcing LLC, located at 1850 Whitney Mesa Dr., Ste. 180, Henderson, NV 89014 on June 29, 2021, @ 11:16am.

Signed this 2nd day of September, 2021.
Under Penalty of Perjury:

Kimberly Friedman

COUNTY OF CLARK
STATE OF NEVADA

SUBSCRIBED and SWORN to before me
This 2nd day of September, 2021.

Notary Public

DEBRA FOSTER
Notary Public, State of Nevada
Appointment No. 17-3449-1
My Appt. Expires Sep 22, 2021

Before the Board of Medical Examiners of the State of Nevada
Investigative Committee

* * * * *

In the Matter of the Investigation of:	)	
	)	
	)	**Case Nos. 20-19721**
Maryanne Phillips, M.D.,	)	
	)	
License No. 7634	)	
	)	

SUBPOENA DUCES TECUM

The Investigative Committee of the Board of Medical Examiners of the State of Nevada sends greetings to:

Direct Compounding and Outsourcing LLC
Attn: Pharmacy Manager
1850 Whitney Mesa Dr., Ste. 180
Henderson, NV 89014

Pursuant to the authority of NRS 630.140(1), WE **COMMAND YOU,** that all singular, business and excuses being set aside; you shall produce and deliver to the Nevada State Board of Medical Examiners, the materials as set forth in this Subpoena Duces Tecum:

1. Properly authenticated and complete copies of any all purchase invoices of all controlled substances, dangerous drugs, including prescription-only, scheduled narcotic medications and Propofol sold, delivered or otherwise transferred or conveyed from any location of Direct Compounding and Outsourcing LLC, in bulk, wholesale or retail to retail format to: Maryanne Phillips, M.D., individually and/or other entity affiliated with Maryanne Phillips, M.D., from January 1, 2019, to present.

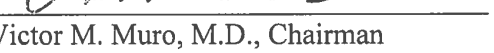
Said records shall be forwarded to the Investigation Division, Nevada State Board of Medical Examiners, 325 E. Warm Springs Rd., Ste. 225, Las Vegas, NV 89119 **within ten (10) days from the date of service** of this subpoena. Failure to comply and produce said records at the

aforesaid time and place may subject you to possible disciplinary action, to include NRS 630.3065(2)(a); further the Investigative Committee may seek relief as provided in NRS 630.140(3).

Additionally, compliance with this subpoena is deemed compulsory and shall not be deemed to be cooperation subject to the protections provided to a physician pursuant to NRS 630.364(3).

Dated this 28th day of June, 2021.

NEVADA STATE BOARD OF MEDICAL EXAMINERS
INVESTIGATIVE COMMITTEE



Victor M. Muro, M.D., Chairman
Nevada State Board of Medical Examiners
Investigative Committee

Nevada State Board of Medical Examiners
INVESTIGATIONS DIVISION
325 E. Warm Springs Rd., Ste. 225
Las Vegas, NV 89119
Within Nevada: (888) 890-8210 ext. 242
Phone: (702)486-3339
Fax: (702) 486-3301
Email: kfriedman@medboard.nv.gov

CONFIDENTIAL

FAX TRANSMISSION

Date: June 28, 2021

To: Direct Compounding & Outsourcing

ATTN: Pharmacy Manager

From: Kim Friedman, CMBI

Fax # (702) 342-0335

COMMENTS: Please contact me at the number above if you have any questions. You can either fax or email the requested documents.

Thank You,
Kim Friedman, CMBI
Sr. Investigator

kfriedman@medboard.nv.gov

This message is intended only for the addressee and may contain information that is confidential. If you receive this communication in error please contact us at the telephone number above.

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Las Vegas, NV 89119
Within Nevada: (888) 890-8210 ext. 242
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Page 1 of 3

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Abbreviations:

HS: Host send	PL: Polled local	MP: Mailbox print	CP: Completed	TS: Terminated by system
HR: Host receive	PR: Polled remote	RP: Report	FA: Fail	G3: Group 3
WS: Waiting send	MS: Mailbox save	FF: Fax Forward	TU: Terminated by user	EC: Error Correct

EXHIBIT 97

EXHIBIT 97

Nevada State Board of Medical Examiners

Affidavit of Service

I, Kim Friedman, Sr. Investigator for the Nevada State Board of Medical Examiners, received the following documents on June 28, 2021, for personal service on McKesson Corporation.

1. _____Complaint and Notice of Hearing and Pre Hearing
2. _____Summary Suspension
3. _____ Order for Substance Abuse Evaluation
4. __X__ Subpoena Duces Tecum

I was unable to serve process personally on respondent, but emailed a copy to litigationintake@mckessoncom, attention Legal Department, Corporate Headquarters located at 6555 State Hwy. 161, Irving, TX 75039 for respondent McKesson Corporation, on June 29, 2021, @ 11:16am.

Signed this 2nd day of September, 2021.
Under Penalty of Perjury:

Kimberly Friedman

COUNTY OF CLARK
STATE OF NEVADA

SUBSCRIBED and SWORN to before me
This 2nd day of September, 2021.

Notary Public

DEBRA FOSTER
Notary Public, State of Nevada
Appointment No. 17-3449-1
My Appt. Expires Sep 22, 2021

Before the Board of Medical Examiners of the State of Nevada
Investigative Committee

* * * * *

In the Matter of the Investigation of:	)	
	)	
	)	**Case Nos. 20-19721**
Maryanne Phillips, M.D.,	)	
	)	
License No. 7634	)	
	)	

SUBPOENA DUCES TECUM

The Investigative Committee of the Board of Medical Examiners of the State of Nevada sends greetings to:

McKesson Corporation
Attn: Legal Department
Corporate Headquarters
6555 State Hwy 161
Irving, TX, 75039

Pursuant to the authority of NRS 630.140(1), WE **COMMAND YOU,** that all singular, business and excuses being set aside; you shall produce and deliver to the Nevada State Board of Medical Examiners, the materials as set forth in this Subpoena Duces Tecum:

1. Properly authenticated and complete copies of any all purchase invoices of all controlled substances, dangerous drugs, including prescription-only, scheduled narcotic medications and Propofol sold, delivered or otherwise transferred or conveyed from any location of McKesson, in bulk, wholesale or retail to retail format to: Maryanne Phillips, M.D., individually and/or other entity affiliated with Maryanne Phillips, M.D., from January 1, 2019, to present.

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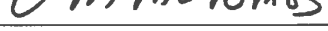
Dated this 28th day of June, 2021.

NEVADA STATE BOARD OF MEDICAL EXAMINERS
INVESTIGATIVE COMMITTEE



Victor M. Muro, M.D., Chairman
Nevada State Board of Medical Examiners
Investigative Committee

Kim A. Friedman

From: Kim A. Friedman
Sent: Tuesday, June 29, 2021 11:16 AM
To: 'litigationintake@mckesson.com'
Subject: FW: MCKESSON
Attachments: MCKESSON.pdf

-----Original Message-----
From: LVCopier@medboard.nv.gov [mailto:LVCopier@medboard.nv.gov]
Sent: Tuesday, June 29, 2021 10:23 AM
To: Kim A. Friedman <kfriedman@medboard.nv.gov>
Subject: MCKESSON

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multifunction device Location: machine location not set
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Kim A. Friedman

From: Kim A. Friedman
Sent: Tuesday, July 27, 2021 11:39 AM
To: Aaron B. Fricke; Donald K. White
Subject: FW: SECURE: McKesson Medical Surgical Inc.'s Response re: Maryanne Phillips M.D - Vida Spa Case no: 20-19721
Attachments: 2021.07.20_McKesson Confidental_Vida Spa_NV Board of Medical Examiners_ 1.1.2019-7.9.2021.xlsx

Results from McKesson. Will add to case file.

Thanks!
-Kim

From: Johnson, Krista [mailto:Krista.Johnson@McKesson.com]
Sent: Friday, July 23, 2021 12:58 PM
To: Kim A. Friedman <kfriedman@medboard.nv.gov>
Cc: Billington, Sharon <Sharon.Billington@McKesson.com>; Scuffil, Theresa <Theresa.Scuffil@McKesson.com>
Subject: SECURE: McKesson Medical Surgical Inc.'s Response re: Maryanne Phillips M.D - Vida Spa Case no: 20-19721

Dear Investigator Friedman,

McKesson Medical-Surgical Inc. is in receipt of the subpoena seeking records regarding purchases made by Vida Spa and Maryanne Phillips, M.D. (Account No. 62896209) for the time period January 1, 2019 to July 9, 2021. Please see the attached file that contains all sales transactions conducted by Vida Spa and Maryanne Phillips, M.D. for the requested time period.

These documents and any attachments are produced for the sole purpose of complying with the Nevada Board of Medical Examiners Investigative Committee request(s) and are only for the use of its intended recipients. The records and/or information provided are McKesson's commercial and trade secret information, and may contain other confidential, proprietary and/or privileged business information of McKesson Corporation or its affiliates, all of which is exempt from public disclosures under FOIA. Any unauthorized review, use, disclosure or distribution is prohibited and you may not disclose any portion of this production to any third party without McKesson's express written consent. Subject only to data entry errors the records are true and correct and were made at or near the time of transaction.

If you have any questions or require further information, please contact me directly.

Thanks!

Krista Johnson
Legal Specialist, GCO – Litigation
McKesson | 6535 N. State Highway 161, Irving, TX 75039 | www.mckesson.com
Office : 972.830.3663
Cell: 469.765.6880
Fax: 210.451.4775

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EXHIBIT 98

EXHIBIT 98

1 BEFORE THE BOARD OF MEDICAL EXAMINERS

2 OF THE STATE OF NEVADA

3

4 -o0o-

5

6 In the Matter of Charges and Case No. 21-10032-1
7 Complaint Against:

8 MARYANNE DEFOREST PHILLIPS, M.D.,

9 Respondent.
_____/
10

11

12

13

14

15

16 TRANSCRIPT OF PROCEEDINGS

17 HEARING ON ORDER FOR SUMMARY SUSPENSION

18 August 18, 2021

19 Reno, Nevada

20

21

22

23

24 REPORTED BY: CONSTANCE S. EISENBERG, NV CCR #142, RMR, CRR

08:44AM 25 Job No. 787340

1 A P P E A R A N C E S

2

3 THE HEARING OFFICER:

4 WOODMAN LAW GROUP
BY: CHARLES B. WOODMAN, ESQ.
5 548 W. Plumb Lane, Ste. B
Reno, Nevada 89501-2001
6 775-786-9800
Fax 775-825-7881
7

8 FOR THE PETITIONER, NEVADA STATE BOARD OF MEDICAL EXAMINERS:

9
DONALD K. WHITE, ESQ.
10 9600 Gateway Drive
Reno, Nevada 89521
11 775-324-9355
Fax 775-688-2321
12 Dwhite@medboard.nv.gov

13

14 FOR THE RESPONDENT:

15 (No appearance)

16

17 ALSO PRESENT:

18 MARGARET FRANCIS BYRD
Legal Assistant
19 Nevada State Board of Medical Examinations

20

21

22

23

24

25

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*****

1 RENO, NEVADA WEDNESDAY, AUGUST 18, 2021, 9:07 A.M.
2 -o0o-
3 THE HEARING OFFICER: All right. We are on the record
4 in The Matter of Charges and Complaint Against Maryanne DeForest
09:07AM 5 Phillips, M.D., Respondent. It's case number 21-10032-1.
6 There is a complaint which has been filed and this
7 hearing on this complaint follows an Order of Summary Suspension
8 that was filed June 28th, 2021. In a moment we'll hear from
9 Mr. White as to service of that Order of Summary Suspension.
09:08AM 10 The last part of that order set today's hearing.
11 And whenever I refer in this proceeding to the IC, I'm
12 referring to the Investigative Committee of the State Board of
13 Medical Examiners. And sometimes I'll also refer to the Board
14 just as "the Board," and that's what I mean, is the Nevada State
09:08AM 15 Board of Medical Examiners.
16 And again, Mr. Donald White is here on behalf of the IC.
17 Dr. Maryanne Phillips thus far has not appeared.
18 I will clarify for the record that we have a live video
19 feed going to the Board's Las Vegas office.
09:09AM 20 It's my understanding that we'll hear witnesses who will
21 testify from that office in Las Vegas on behalf of the IC, but
22 I'll also note that Dr. Phillips does not appear to have arrived
23 there to participate remotely from Las Vegas. She's not there,
24 she's not here. And in a moment we'll clarify that she's been
09:09AM 25 given proper notice of this hearing. And assuming that she has,

1 then we will move forward.
2 Mr. White, before we take care of any other
3 housekeeping, do we have proof of service of that, of notice of
4 this hearing on her which would obviously include the Order of
09:09AM 5 Summary Suspension?
6 MR. WHITE: Yes, Mr. Woodman. Thank you. I'll submit
7 that I'm holding an Acceptance of Service.
8 At the time this was filed on June 28th, 2021, Lyn
9 Beggs, who was her attorney of record at the time, signed it, the
09:10AM 10 Acceptance of Service for the Order of Summary Suspension, if you
11 would like to take a look at that.
12 THE HEARING OFFICER: Thank you. And while I'm doing
13 that, Ms. Beggs, has she -- on the record, has she does something
14 to withdraw from her representation of Dr. Phillips? Or do we
09:10AM 15 know, was she only retained for that one summary suspension? What
16 do we know about her representation?
17 MR. WHITE: Trying to recall, but she did withdraw. I
18 don't know if she sent us an official letter, but it was certainly
19 an email, saying that she was withdrawn.
20 THE HEARING OFFICER: All right.
21 MR. WHITE: I don't have it printed out, but she did.
22 THE HEARING OFFICER: All right. Maybe before we're
23 done here, if you can find, on a break or something, or over the
24 lunch hour, depending on how far we go, if you can print that off.
09:10AM 25 I just want to make sure that Dr. Phillips is being

1 given every reasonable opportunity to appear either personally,
2 which we want her to be, but at least through counsel, and want to
3 make sure that she's not being left out in the cold here.
4 All right. With that, Mr. White, do you have any
09:11AM 5 housekeeping issues before we get to either an opening statement
6 and/or evidence?
7 MR. WHITE: I just -- yeah, a couple of things.
8 Obviously, you had stated earlier that the complaint has
9 been filed in this. Obviously, one of the requirements to have
09:11AM 10 her, to have Dr. Phillips remain suspended per NRS 630.326 is that
11 we have a complaint filed; otherwise, no matter what kind of
12 evidence, I guess, we presented today, you could just deem it that
13 she has her license back, according to that statute.
14 So we have filed it. It was my intention to serve her
09:11AM 15 with it today, should she be here, which she knows about this
16 summary suspension through her former attorney.
17 So we're not able to serve her today. That will be
18 something we work on in the days forward. So we'll try and find
19 her and get her served with the complaint.
09:12AM 20 In addition, I would ask that if we can try and expedite
21 the written findings and recommendations for this just because
22 these things kind of move fast.
23 I assume we'll be setting a hearing date today too at
24 some point, should -- whether she remains suspended or not, we'll
09:12AM 25 still set a hearing date for, actually, hearing on the merits.

1 THE HEARING OFFICER: Right.
2 MR. WHITE: And that won't be too far down the road, I
3 suspect; especially if she does remain suspended, we would want
4 her in here as quick as possible, or, you know, for both parties,
09:12AM 5 reasonable time to prepare, but also to -- if she remains
6 suspended -- to be fair to her, have a hearing on the merits, so
7 we can determine more at that point.
8 So, like I said, these things kind of move pretty
9 quickly so I would ask that those written findings and
09:13AM 10 recommendations be sent to us as quickly as possible.
11 And also if Madam Court Reporter can get us the
12 transcript as soon as possible. I know everybody is busy. I say
13 this with complete deference to what you guys have to do, but,
14 yeah, so if we can get that, maybe by the end of next week or
09:13AM 15 something, that would be fantastic.
16 I do have to amend the Order of Summary Suspension a
17 little bit. We do have in that -- you'll notice that -- and this
18 is just a matter of getting evidence sort of after it was written,
19 and it's really actually going to take some things off.
09:13AM 20 There's really no counts in here, but I just want to,
21 for clarity of the record -- going to paragraph 11 on page 3, I'm
22 going to leave that as it is.
23 We have, you will see, I'll just proffer this now, you
24 will see a sedation log in the evidence that our investigator was
09:14AM 25 able to obtain, that shows 72 different patients were given

1 propofol, so I'll leave that as it is.
2 However, when it comes to -- let's see, I think we
3 have --
4 THE HEARING OFFICER: It refers back to --
09:14AM 5 MR. WHITE: Paragraph 14. Yeah, paragraph 14, on
6 page 4.
7 THE HEARING OFFICER: And it talks about that in 15
8 again, and 16, for what it's worth.
9 MR. WHITE: Yeah exactly, 15 and 16.
09:14AM 10 So when it comes to sort of the alleged fraudulent
11 behavior of concealing the use of propofol from the medical
12 records, and it will reflect that, you'll see it reflected in the
13 complaint, that actually should be now 59 times, not 72 times.
14 THE HEARING OFFICER: All right.
09:15AM 15 MR. WHITE: Because we do not have medical records for
16 all 72 patients. So I do not want to allege something that I
17 can't -- I don't know of. We just haven't gotten them all.
18 THE HEARING OFFICER: So in paragraphs 14, 15 and 16,
19 really, we're not talking about 72 patients in terms of what you
09:15AM 20 can prove, but 59?
21 MR. WHITE: Correct. And 17, which would be line 6 on
22 page 5, that would also be 59 instances.
23 THE HEARING OFFICER: Got it. Very good.
24 MR. WHITE: And like I said, that will reflect what's in
09:15AM 25 the Complaint that's been filed yesterday.

1 THE HEARING OFFICER: All right. Anything else to
2 address before we get to the case itself?
3 MR. WHITE: I think. Let me just see.
4 No, I think we've got it all. If I think of anything,
09:16AM 5 I'll ask for -- to be heard on that, but I think I've got
6 everything I need for housekeeping.
7 THE HEARING OFFICER: All right. You remember my rule,
8 and that is that we'll take care of our court reporter since she's
9 taking care of the record, which is king here.
09:16AM 10 And so if our reporter needs something restated, if
11 she's having a hard time hearing a witness, or if one of us
12 mumbles, we will give total deference to her.
13 When she's ready for a break, because sometimes we get
14 into these things and I don't think about how long she has been
09:16AM 15 banging away over there, she's just going to let us know, and we
16 will take breaks as we need to, to keep her going.
17 MR. WHITE: Certainly.
18 THE HEARING OFFICER: With that, did you want to make an
19 opening statement or do you just want to get right to the
09:16AM 20 evidence? I leave that totally up to you, Mr. White.
21 MR. WHITE: I have just kind of a short one.
22 THE HEARING OFFICER: All right.
23 MR. WHITE: Short opening statement. Thank you.
24 This hearing today concerns the summary suspension of
09:17AM 25 Dr. Phillips, and as required by statute to determine if a

1 reasonable basis to exists to continue the suspension of
2 Dr. Phillips' license to practice medicine.
3 The governing statute, as I mentioned before, is
4 NRS 630.326.
09:17AM 5 THE HEARING OFFICER: Remember, when you're reading,
6 it's easy to go fast and we have got the keep our eye on the
7 prize.
8 MR. WHITE: Yes, thank you.
9 Today we're primarily concerned with Subsections 1 and
09:17AM 10 2, which state that if an investigation by the Board regarding a
11 physician, perfusionist, physician assistant or practitioner of
12 respiratory care reasonably determines that the health, safety or
13 welfare of the public or any patient served by the licensee is at
14 risk of imminent or continued harm, the Board may summarily
09:18AM 15 suspend the license of the licensee pending the conclusion of a
16 hearing to consider a formal complaint against the licensee.
17 If the Board or Investigative Committee of the Board
18 issues an order summarily suspending the license of a physician,
19 the Board shall hold a hearing not later than 60 days.
09:18AM 20 We are within that range, after the date on which the
21 order is issued.
22 And there has been no talks of -- just as a sidebar --
23 there has been no talks of any continuance or anything like that
24 for this hearing today. So --
09:18AM 25 THE HEARING OFFICER: All right. And I'll just clarify,

1 as I stated earlier, the summary suspension order was issued
2 June 28th. Today is August 18th. So we're within that 60 days.
3 MR. WHITE: Dr. Phillips has been licensed since
4 December 21st, 1995. Her license is currently indefinitely
09:19AM 5 suspended pending what happens today and at the next hearing.
6 The Investigative Committee issued a summary suspension
7 of Dr. Phillips' license to practice medicine on June 28th, 2021,
8 as you've stated, Mr. Woodman.
9 Dr. Phillips is also subject to a settlement agreement
09:19AM 10 that lasts until approximately June 2022, that is right now marked
11 as Exhibit 1, for any kind of reference that you need.
12 Throughout this hearing the evidence will show that
13 Dr. Phillips was served with the summary suspension through her
14 attorney at the time. Also, a board investigator, Kim Friedman,
09:19AM 15 who you'll hear from pretty soon as the investigator on this case,
16 compiled nearly all of the evidence in the binders before you.
17 Ms. Friedman also did two separate inspections of
18 Vida Spa, one in October of 2020 and one in June of 2021. You'll
19 see that she was able to gather important evidence. One of them
09:20AM 20 is a sedation log. And that, I will submit now and show later,
21 that it was something that maybe the IC may -- we may have never
22 seen it otherwise, that sedation log.
23 Ms. Friedman was also able to gather important photos of
24 Vida Spa during her visit during her inspection.
09:20AM 25 You'll also find out that Ms. Friedman was working in

1 conjunction with other agencies, because Vida Spa and the doctors
2 Vida Spa hired were running afoul of the statutes at a few
3 agencies.
4 Ms. Friedman, through orders, requests and subpoenas,
09:20AM 5 was able to compile the medical records you see in the binders
6 before you.
7 You will also hear from a recent patient of Vida Spa,
8 which will be one of the witnesses we call today, and more
9 importantly, she was a patient of Dr. Phillips.
09:20AM 10 She will tell you about her experience and how it was
11 not what she expected, it was frightening, and she's still
12 experiencing ill effects of her surgery in the overall experience.
13 After you hear and see the evidence about to be
14 presented in this matter, you will agree that Dr. Phillips was
09:21AM 15 administering general anesthesia for conscious sedation or deep
16 sedation, any kind, at an unaccredited location. That runs afoul
17 of NRS 630.373, which is noted in the summary suspension order,
18 which has to do with, really, a doctor cannot administer or
19 supervise directly the administration of general anesthesia unless
09:21AM 20 the general anesthesia or conscious sedation or deep sedation is
21 in an office of a physician or osteopathic physician which holds a
22 permit.
23 This, you'll find out, that this Vida Spa did not have a
24 permit to offer those services for any kind of sedation.
09:21AM 25 And she did that, as you'll see from the sedation log,

1 that there was at least 72 patients that were administered
2 propofol. I'll submit there's probably a lot more than that, we
3 just don't have any of those records.
4 Also was violating or failed to maintain proper medical
09:22AM 5 records. In trying to conceal the use of propofol, you will see
6 through the evidence and through the testimony that the sedation
7 log has names of people. We have the medical records for 59 of
8 those patients. None of them have propofol listed in the list of
9 medications or anything used during the surgery. Propofol is just
09:22AM 10 absent from all those records.
11 And so that would be a failure to maintain proper
12 medical records. For that many patients, it's very dangerous to
13 try and conceal that.
14 THE HEARING OFFICER: Just to help both the reporter and
09:23AM 15 me and my notes, how do you spell "propofol"?
16 MR. WHITE: P-R-O-P-O-F-O-L.
17 THE HEARING OFFICER: Thank you.
18 MR. WHITE: She also violated the standards of practice.
19 NRS 630.306(1)(b)(2) provides that engaging in any conduct which
09:23AM 20 the Board has determined is a violation of the standards of
21 practice established by regulation of the Board constitutes
22 grounds for initiating disciplinary action.
23 In this case it's -- you're also -- per
24 NAC 630.230(1)(a), it's prohibited professional conduct to falsify
09:23AM 25 records of health care.

1 Again, the allegation is that she is hiding the use of
2 propofol, concealing it, by not putting it in the medical records,
3 yet we have a law that states patient names, dates, everything.
4 And finally, engaging in unsafe or unprofessional.
09:24AM 5 Conduct pursuant to NRS 630.306(1)(p), and engaging in any act
6 that is that unsafe or unprofessional conduct in accordance with
7 regulations adopted by the Board.
8 So a regulation that has been adopted by the Board is
9 NAC -- which stands for Nevada Administrative Code --
09:24AM 10 630.230(1)(a), prohibits falsifying records of health care.
11 And again, we have -- we're going to show 59 instances
12 of where she did that.
13 So I think the testimony and evidence that will be
14 presented today will establish that the health, safety or welfare
09:25AM 15 of the public or any patient served by the licensee is -- was and
16 is at risk of imminent or continued harm. And that a reasonable
17 basis, which is the burden that needs to be shown by the IC today,
18 exists that warrants that her license to practice medicine should
19 remain suspended.
09:25AM 20 Thank you.
21 THE HEARING OFFICER: Very good.
22 MR. WHITE: I'll call my first witness, if you like.
23 THE HEARING OFFICER: Please call your first witness.
24 MR. WHITE: First witness will be Kim Friedman.
09:25AM 25 THE HEARING OFFICER: Since we're trying to reach her,

which way does she spell "Friedman"?

MR. WHITE: It is F-R-I-E-D-M-A-N.

THE HEARING OFFICER: Thank you.

MR. WHITE: You're welcome.

09:26AM THE HEARING OFFICER: She's one of the IC investigators?

MR. WHITE: Yes.

Are we still on the record?

THE HEARING OFFICER: Do you want to go off?

MR. WHITE: No, I would like to remain on the record.

09:26AM One thing I would like to, just for fairness, even though Dr. Phillips is not here, I would like to invoke the Rule of Exclusion.

So I will ask that my witnesses don't talk to one another. So I'll make sure -- or if you can, Mr. Woodman,

09:27AM admonish Ms. Friedman when she comes in.

THE HEARING OFFICER: Yeah, the rule will be invoked.

Good morning, Ms. Friedman.

THE WITNESS: Good morning.

THE HEARING OFFICER: You can hear me all right?

09:27AM THE WITNESS: I can. Can you hear me?

THE HEARING OFFICER: I can hear you just fine.

Making sure our reporter can hear you since she's going to be taking down everything you say.

Ms. Friedman, I'm Charles Woodman. I am the Board's

09:27AM hearing officer assigned to this case. I just want to let you

1 know, before Mr. White starts asking you questions, the Rule of
2 Exclusion has been invoked.
3 And what that means is that other than while you are
4 testifying here on the record, answering questions, after your
09:27AM 5 testimony and whether you are brought back to add any other
6 testimony later on or not, please don't speak with any other
7 potential witnesses in this case about your testimony or about the
8 case in general. Okay?
9 THE WITNESS: Okay.
09:28AM 10 THE HEARING OFFICER: Until this hearing concludes.
11 Thank you, ma'am.
12 All right. Mr. White.
13 I'm sorry, Ms. Friedman, will you raise your right hand?
14 Our court reporter is going to swear you in.
15
16 KIMBERLY FRIEDMAN
17 called as a witness, having been duly sworn,
18 testified remotely as follows:
19
09:28AM 20 THE HEARING OFFICER: Thank you.
21
22 DIRECT EXAMINATION
23 BY MR. WHITE:
24 Q Ms. Friedman, I'm going to ask you, actually, do you
09:28AM **25 prefer the view of us, all of us at the table, or would you prefer**

1 just on me?
2 A All at the table is fine.
3 Q Okay. Okay.
4 Good morning, Ms. Friedman.
09:29AM 5 A Good morning.
6 Q I'm going to ask you, we have kind of done this already,
7 I think, but I just want to ask you to introduce yourself, say
8 your name, first and last, and maybe spell your last name for the
9 court reporter, please.
09:29AM 10 A Yes. It's Kimberly Friedman, F-R-I-E-D-M-A-N.
11 Q Thank you. And do you work for the Medical Board?
12 A Yes, I do.
13 Q How long have you worked for the Medical Board?
14 A 12 years. I'm sorry, nine years.
09:29AM 15 Q Nine years. Okay.
16 A Yes.
17 Q Now, you are in the Las Vegas office. Have you always
18 worked in the Las Vegas office or did you work in Reno at any
19 time?
09:29AM 20 A Only the Las Vegas office.
21 Q Okay. And what is your job description? What's your
22 title?
23 A Senior investigator.
24 Q Thank you. I'm going to take you through -- you have
09:30AM 25 some binders before you, as you can see. I'm going to take you

1 through, well, pretty much each exhibit, just to try and
2 authenticate these, lay a foundation as to where they came from,
3 who got them, that sort of thing. Okay?
4 A Okay.
09:30AM 5 Q Okay. So I want you to take a look at Exhibit 1.
6 Well, actually, have you had a chance -- let me stop you
7 for a second. I'm going to do this, but have you had a chance to
8 look at these binders?
9 A Yes, I have.
09:30AM 10 Q And what's contained in them?
11 A Yes, I have.
12 Q Okay. Would you submit that nearly everything in these
13 binders was compiled by you in your investigation of this case?
14 A That's correct.
09:30AM 15 Q And let me ask you -- let me back up a little bit more.
16 Were you assigned to investigate this case of Maryanne
17 Phillips?
18 A Yes, I was.
19 Q Okay. All right. So let's just go to Exhibit 1 really
09:31AM 20 quick. And what do you see there?
21 A It is a Settlement Agreement in the Matter of Charges
22 and Complaint Against Maryanne Phillips, Respondent.
23 Q So did you actually compile this?
24 A I did not create this document.
09:31AM 25 Q Correct. Okay. Thank you. I actually created this

1 **document, but you have seen settlement agreements before, haven't**
2 **you?**
3 A Yes, I have.
4 **Q And so you can attest to, this is a settlement**
09:31AM 5 **agreement, you know, it's an example of a settlement agreement**
6 **you've seen in many cases in your nine years working for this**
7 **office?**
8 A Yes.
9 MR. WHITE: I move to have this admitted, Mr. Woodman.
09:31AM 10 Also, based on it's a public document, and I think you can take
11 judicial notice too, that it's a file document in the case.
12 THE HEARING OFFICER: One will be admitted.
13 MR. WHITE: Or in a previous case, I should say.
14 Thank you.
09:32AM 15 (Exhibit 1 admitted into evidence.)
16 BY MR. WHITE:
17 **Q Ms. Friedman, please turn to Exhibit 2.**
18 A Okay.
19 **Q Just so everyone knows, I'm not going to go individually**
09:32AM 20 **through every patient we have. We have a lot of patients, 59**
21 **patients. I'm not going to go individually through those. I'll**
22 **probably do those as a group so we won't be here until tomorrow.**
23 THE HEARING OFFICER: Very good.
24 BY MR. WHITE:
09:32AM 25 **Q So, Ms. Friedman, what is that document we're looking at**

1 **in Exhibit 2?**
2 A This is a printout from the Secretary of State business
3 license.
4 **Q And did you -- did you gather this evidence?**
09:32AM 5 A Yes.
6 **Q Okay. And I'm sorry, I was writing something down**
7 **really quick. Did you say also it's a business license from the**
8 **Nevada Secretary of State for Vida Spa, LLC?**
9 A For Vida Spa, LLC, correct.
09:33AM 10 **Q Okay. I'll ask you to turn to page 13 of that exhibit.**
11 A Okay.
12 **Q Are you familiar with the manager's name there?**
13 A Yes.
14 **Q Okay. And so -- and what is her name?**
09:33AM 15 A Giselle Platfoot.
16 **Q What does she have to do with Vida Spa?**
17 A She is the owner of Vida Spa.
18 **Q And does that address appear to be correct?**
19 A Correct, on 3225 South Rainbow Boulevard.
09:33AM 20 MR. WHITE: Okay. Thank you.
21 I would move to admit Exhibit 2.
22 THE HEARING OFFICER: Two is admitted.
23 (Exhibit 2 admitted into evidence.)
24 BY MR. WHITE:
09:34AM 25 **Q Right. Please turn to Exhibit 3, Ms. Friedman.**

1 **Are you familiar with this document?**
2 A Yes.
3 **Q Did you gather this when you were compiling evidence for**
4 **this case?**
09:34AM 5 A Yes.
6 **Q And what is it?**
7 A It is a print-off from the Clark County business license
8 showing the business detail for Vida Spa.
9 **Q And just kind of -- just to note, is it the same address**
09:34AM 10 **as the Secretary of State printout that we have?**
11 A Yes.
12 **Q And also business owner, you see that heading?**
13 A Yes, Giselle Platfoot.
14 MR. WHITE: Thank you. I move to admit Exhibit 3.
09:35AM 15 THE HEARING OFFICER: Three will be admitted.
16 (Exhibit 3 admitted into evidence.)
17 BY MR. WHITE:
18 **Q Okay. Ms. Friedman, please turn to Exhibit 4, what's**
19 **been marked as Exhibit 4.**
09:35AM 20 A Okay.
21 **Q What do we see there?**
22 A It's the allegation letter that I sent to Dr. Maryanne
23 Phillips on March 19th, 2021.
24 **Q Okay. I think you kind of answered two with one**
09:35AM 25 **question there. That's good. So you sent this. You actually**

1 **sent this?**
2 A Yes.
3 **Q And attached to that, starting at page 18, what do we**
4 **see there?**
09:35AM 5 A That is the Board order that was sent along with the
6 allegation for a formal written response to the letter.
7 **Q Okay. And also was it to start gathering some medical**
8 **records?**
9 A No. At this time it was just wanting a response to the
09:36AM 10 allegation letter.
11 MR. WHITE: Okay. Considering that Ms. Friedman is the
12 one who sent this letter, I would move to admit Exhibit 4.
13 THE HEARING OFFICER: Four is admitted.
14 (Exhibit 4 admitted into evidence.)
09:36AM 15 BY MR. WHITE:
16 **Q Please turn to what's been marked as Exhibit 5,**
17 **Ms. Friedman.**
18 A Okay.
19 **Q You're already there? Okay. What do we have here?**
09:36AM 20 A This is a second request to respond to the allegation
21 letter that I had previously sent to Dr. Maryanne Phillips.
22 **Q Okay. So why would a second request be sent?**
23 A Because the 30-day mark had transpired and it was time
24 to send a second request because I had not received a response
09:37AM 25 from Dr. Phillips.

1 MR. WHITE: Okay. I would move to admit Exhibit 5.
2 THE HEARING OFFICER: Five is admitted.
3 (Exhibit 5 admitted into evidence.)
4 THE HEARING OFFICER: And, Ms. Friedman, I'll just ask
09:37AM 5 you a question. You said you hadn't received a response.
6 Obviously, I can tell by you sending the second request, you
7 hadn't gotten any records.
8 Had you heard in any way, shape or form from
9 Dr. Phillips that she called, emailed, left any messages?
09:37AM 10 THE WITNESS: No.
11 THE HEARING OFFICER: Okay. Thank you.
12 MR. WHITE: Thank you, Mr. Woodman.
13 BY MR. WHITE:
14 Q Turn, please, to what has been marked as Exhibit 6,
09:37AM **15 Ms. Friedman.**
16 What is this document we're looking at?
17 A This is a response on behalf of Dr. Maryanne Phillips
18 through her representation by Lyn Beggs.
19 Q And it appears it's addressed to you; is that correct?
09:37AM 20 A That is correct.
21 Q Okay. And it's dated -- what's the date at the top?
22 A May 19th of 2021.
23 MR. WHITE: Sorry, I talked over her. Did you hear
24 that, Ms. Court Reporter?
09:38AM 25 THE REPORTER: May 19th of 2021?

1 MR. WHITE: Correct. My fault. Sorry.
2 BY MR. WHITE:
3 **Q And it appears -- if you turn to page 27 of that**
4 **exhibit.**
09:38AM 5 A Okay.
6 **Q It is signed by somebody. Who is that?**
7 A It's signed by Attorney Lyn Beggs.
8 **Q And it's also copied to somebody?**
9 A Maryanne Phillips is cc'd on it.
09:38AM 10 **Q Okay. Thank you. And is it your understanding that at**
11 **some point previously Ms. Beggs was representing Dr. Phillips?**
12 A Yes.
13 MR. WHITE: I would move to admit Exhibit 6.
14 THE HEARING OFFICER: And 6 will be admitted.
09:39AM 15 (Exhibit 6 admitted into evidence.)
16 BY MR. WHITE:
17 **Q Please take a quick look at what's been marked as**
18 **Exhibit 7, Ms. Friedman.**
19 A Okay.
09:39AM 20 **Q What do we have there?**
21 A This is a response from Dr. Salvador Borromeo to the
22 investigator at Nevada State Board of Pharmacy regarding their
23 investigation of Vida Spa.
24 **Q Okay. And I'll ask you just a few questions about that.**
09:39AM 25 A Sure.

1 **Q So it does look like it -- I guess one of the reasons it**
2 **could be here is that it mentions Dr. Maryanne Phillips in this**
3 **response; does it not?**
4 A That's correct.
09:39AM 5 **Q Okay. And this is something you compiled; is that**
6 **right?**
7 A Yes. I received a copy from the investigator at the
8 Pharmacy Board.
9 **Q Okay. And maybe to make the record a little clear, a**
09:40AM 10 **little clearer, the reason -- what is the reason we have this**
11 **response from a Dr. Borromeo?**
12 A When we conducted an initial inspection on the Vida Spa
13 facility there were concerns of how controlled substances were
14 being written and delivered to patients at Vida Spa. And
09:40AM 15 Dr. Borromeo at the time was the medical director.
16 **Q Okay. And so -- and obviously, as I mentioned before,**
17 **or the question I asked you before is Dr. Maryanne Phillips is**
18 **mentioned in this. Were you at that point sort of at the**
19 **beginning of the investigation?**
09:40AM 20 A Yes. These were the beginning stages of the
21 investigation and we were looking at, at that time, three
22 providers for that facility.
23 **Q Okay.**
24 **And you said that Ms. McClish sent you this to make it**
09:41AM 25 **as part of your investigation, too?**

1 A Correct.
2 **Q And were you, yes or no, were you with Ms. McClish on**
3 **the inspection that you have talked about?**
4 A That's correct, on October 27th.
09:41AM 5 **Q Of what year?**
6 A Of 2020.
7 MR. WHITE: 2020. Thank you.
8 I would move to admit Exhibit 7.
9 THE HEARING OFFICER: Seven is admitted.
09:41AM 10 (Exhibit 7 admitted into evidence.)
11 BY MR. WHITE:
12 **Q Please look at what's been marked as Exhibit 8,**
13 **Ms. Friedman.**
14 A Okay.
09:41AM 15 **Q Does it appear to be photos? What exactly are we**
16 **looking at there?**
17 A These are photos that I took during an on-site
18 inspection on June 23rd with the Bureau of Health Care Quality and
19 Compliance.
09:42AM 20 **Q Who were you with?**
21 A Two inspectors -- do you want me to take off my mask?
22 **Q Sure.**
23 A -- with the Bureau of Health Care Quality and
24 Compliance.
09:42AM 25 **Q And you said two inspectors from there?**

1 A That's correct.
2 **Q Okay. And you also, it sounded like you mentioned that**
3 **you took these photos; is that correct?**
4 A That's correct.
09:42AM 5 MR. WHITE: Okay. I would move to admit Exhibit 8.
6 THE HEARING OFFICER: 8 is admitted.
7 (Exhibit 8 admitted into evidence.)
8 MR. WHITE: Indulgence please, for a moment.
9 THE HEARING OFFICER: Certainly.
09:43AM 10 BY MR. WHITE:
11 **Q Ms. Friedman, would you turn to what's been marked as**
12 **Exhibit 9.**
13 A Okay.
14 **Q Sort of in the title there, but what are we looking at**
09:43AM 15 **here?**
16 A This is a Cease and Desist Citation from the Nevada
17 State Board of Pharmacy to Maryanne Phillips, Dr. Maryanne
18 Phillips.
19 **Q Okay. How did you -- well, let me ask you, did you**
09:43AM 20 **gather this during your investigation of this case?**
21 A Yes, I received a copy of the cease and desist from the
22 attorney at the Nevada State Board of Pharmacy.
23 **Q Okay. And looks like that person signed it. Was it**
24 **Courtney Lee who is general counsel at the Nevada State Board of**
09:44AM 25 **Pharmacy that sent you this?**

1 A That is correct.
2 MR. WHITE: Okay. I would move to admit --
3 THE HEARING OFFICER: Nine?
4 MR. WHITE: Nine, yes.
09:44AM 5 THE HEARING OFFICER: Nine is admitted.
6 (Exhibit 9 admitted into evidence.)
7 BY MR. WHITE:
8 Q Please turn to what's been marked as Exhibit 10, please.
9 This looks a little like the last exhibit. What do we have here?
09:44AM 10 A Yes. This is also another Cease and Desist Citation
11 from the Nevada State Board of Pharmacy. It was served on
12 Vida Spa, LLC, Ms. Giselle Platfoot from Courtney Lee.
13 Q And did Ms. Lee also send you this?
14 A Yes, she did.
09:44AM 15 MR. WHITE: Okay. Move to admit Exhibit 10.
16 THE HEARING OFFICER: 10 is admitted.
17 (Exhibit 10 admitted into evidence.)
18 BY MR. WHITE:
19 Q Please take a look at what's been marked as Exhibit 11,
09:45AM **20 Ms. Friedman.**
21 Is this document familiar to you?
22 A Yes, it is.
23 Q What is this that we're looking at?
24 A This is a sedation log that was discovered during the
09:45AM 25 on-site inspection on June 23rd, 2021, with Bureau of Health Care

1 Quality and Compliance.

2 **Q So was this the same inspection where you took the**

3 **pictures that we just -- I'll start again. Sorry.**

4 A Yes.

09:45AM 5 **Q Same, same inspection?**

6 A Yes.

7 **Q Which was June 23rd, 2021?**

8 A That's correct.

9 **Q Now, I just want to establish something here a little**

09:46AM 10 **bit.**

11 **How did you find these?**

12 A Would you like me to walk you through, when I went

13 through the inspection?

14 **Q Well, you know what, I have that ready. I have some**

09:46AM 15 **questions for you about your inspections, so we'll wait until**

16 **then.**

17 **I'll just move to admit right now, but you did -- let me**

18 **ask you this question.**

19 **During your inspection, did you find these this sedation**

09:46AM 20 **log and then make it a part of your investigation of this case?**

21 A Yes. The inspection log was located on top of a

22 countertop and I did ask for copies to add to my investigation.

23 MR. WHITE: Okay. I move to admit Exhibit 11.

24 THE HEARING OFFICER: 11 is admitted.

09:46AM 25 (Exhibit 11 admitted into evidence.)

1 BY MR. WHITE:

2 **Q Please take a look at what's been marked as Exhibit 12.**

3 A Okay.

4 **Q What are we looking at?**

09:46AM 5 A This is a list of daily procedures from Vida Spa that

6 were received as part of some of the medical records that I

7 received from Vida Spa.

8 **Q Okay. And so this -- did this arrive at your office,**

9 **after you had made --**

09:47AM 10 A Yes.

11 **Q Sorry, let me just finish up -- after you had made some**

12 **requests for medical records?**

13 A That's correct. It was hand-delivered to our office.

14 MR. WHITE: Okay. I would move to admit Exhibit 12.

09:47AM 15 THE HEARING OFFICER: 12 is admitted.

16 (Exhibit 12 admitted into evidence.)

17 THE HEARING OFFICER: Ms. Friedman, I'm going to ask

18 you, I'm sure that Mr. White is going to come back to this later,

19 but just in the interest of cutting to the chase, looking at the

09:47AM 20 first page of Exhibit 12, which is page 50 of the Bates numbering

21 down in the bottom right corner, you have all the different

22 patient names and then we have a code and then the description of

23 what the code is. There's a bunch of those.

24 The first several are anesthesia. And then it says

09:48AM 25 provider, Dr. PH. In your investigation, did you discover or do

1 you have reason to believe who they are referring to there with
2 Dr. PH?
3 THE WITNESS: Yes, they are referring to Dr. Phillips.
4 THE HEARING OFFICER: And how did you determine that
09:48AM 5 Dr. PH refers to Dr. Phillips?
6 THE WITNESS: There are patient names on the left-hand
7 side that have matching records that Dr. Phillips' name is on.
8 THE HEARING OFFICER: Okay. Thank you.
9 I didn't mean to interrupt your flow, Mr. White, but --
09:48AM 10 MR. WHITE: No, it's totally okay. It's was a great
11 question. I was actually going to have it admitted first but I
12 was going to ask the same thing. So thank you.
13 BY MR. WHITE:
14 Q I'll ask -- well, let me ask you this before we leave
09:49AM 15 Exhibit 12.
16 Ms. Friedman, do a lot of these patient names match up
17 with the medical records you were able to get?
18 A There are a few, yes.
19 Q Okay. And on those medical records we may see possibly
09:49AM 20 that Dr. Phillips was the provider on those?
21 A Yes.
22 Q Okay. All right. I would like to ask you to turn to
23 what's been marked as Exhibit 13.
24 And what is this document?
09:50AM 25 A This is a medication log.

1 **Q Okay. And how did you -- or did you compile this as**
2 **part of your investigation?**
3 A Yes, I did.
4 **Q Was this sent to you as in response to requests for**
09:50AM 5 **records?**
6 A Yes, it does -- was.
7 **Q Okay. Now I'll note that it doesn't -- it has dates,**
8 **looks like. It has some medications listed; is that correct?**
9 A Correct.
09:50AM 10 **Q And maybe it looks like the dosage, because I see some**
11 **milliliters?**
12 A Correct.
13 **Q And also it has -- does it have patient names there?**
14 A Correct.
09:50AM 15 **Q And then to the right of that, looks like kind of**
16 **what -- what they did, so I see lipo four times at least on the**
17 **first page here.**
18 A Correct.
19 **Q And do you know who, are you able to tell what these**
09:51AM 20 **initials mean when it says "employee"? And you can see it looks**
21 **like initials KM. Do you know who those are?**
22 A Yes, I do. KM and KK are two employees of Vida Spa.
23 They are RNs. One is Kristin Molina and the other one is Kimberly
24 Kujat.
09:51AM 25 MR. WHITE: All right. Thank you. I would move to

1 admit Exhibit 13.
2 THE HEARING OFFICER: 13 is admitted.
3 (Exhibit 13 admitted into evidence.)
4 BY MR. WHITE:
09:51AM 5 **Q Please take a look at what's been marked as Exhibit 14.**
6 A Okay.
7 **Q What are we looking at here?**
8 A This is a sedation -- deep sedation or general
9 anesthesia application, signed by Dr. Maryanne Phillips.
09:52AM 10 **Q So is this an application for, I guess, for the**
11 **accreditation to do anesthesia?**
12 A Yes.
13 **Q Okay. And how did you end up with this document?**
14 A Through -- through the Med Board. Sorry, through her
09:52AM 15 licensing.
16 **Q Okay. Thank you.**
17 **So it looks like -- this is through us, and it looks**
18 **like it's dated. Looks like it's signed and dated by her. And**
19 **what's the date there?**
09:53AM 20 A May 25th, 2019.
21 MR. WHITE: Okay. I would move to admit Exhibit 14.
22 THE HEARING OFFICER: 14 is admitted.
23 (Exhibit 14 admitted into evidence.)
24 BY MR. WHITE:
09:53AM 25 **Q Now I'm going to take 15 through -- Exhibits 15 through**

1 **47, kind of as a group.**
2 **I'll just state that these are all medical records for**
3 **different patients, but they are all sort of similar in what they**
4 **contain, but just different patients.**
09:53AM 5 **Ms. Friedman, as you stated before, you've had time to**
6 **at least review these binders a little bit, so with regards to**
7 **Exhibits 15 through 47, were these compiled -- did you compile**
8 **them in your investigation of this case?**
9 A Yes, I did.
09:54AM 10 **Q Okay. So again, the question is, so these medical**
11 **records, were they sent to you in response to requests or**
12 **subpoenas for medical records?**
13 A Yes, they were.
14 MR. WHITE: Okay. I would move -- I'm moving to admit
09:54AM 15 15 through 47.
16 THE HEARING OFFICER: All right. So for 15 through 47,
17 they will be provisionally admitted, and then at some point,
18 depending on what I see to be in them or not in them, I may come
19 back later to clarify that I think some of them are not relevant;
09:54AM 20 but obviously, there's nobody here to object. So at the very
21 least they are provisionally admitted.
22 MR. WHITE: Okay.
23 (Exhibit 15 through 47 provisionally
24 admitted into evidence.)
25 ///

1 BY MR. WHITE:

2 **Q Ms. Friedman, I'm going to ask to you take a look at**

3 **what's been marked as Exhibit 48.**

4 A I'm sorry, give me a moment.

09:56AM 5 **Q Do you need a moment to look at it?**

6 A No, I'm good.

7 **Q What is that document we're looking at?**

8 A This is an official order to cease operation without a

9 permit from the Department of Health and Human Services, Division

09:56AM 10 of Public and Behavioral Health.

11 **Q Okay. And what is the date on that?**

12 A July 2nd, 2021.

13 **Q Okay. And it looks like it's signed at the bottom?**

14 A Yes, from Minou Nelson.

09:56AM 15 **Q And did you compile this as part of your investigation**

16 **on this case?**

17 A Yes, I did.

18 **Q Was it sent to you?**

19 A Yes, it was.

09:56AM 20 **Q Okay. And it does appear that it's -- it is for both --**

21 **well, actually who is it addressed to who is supposed to cease**

22 **operation?**

23 A It's addressed to Vida Spa, Dr. Phillips, at 3225 South

24 Rainbow.

09:57AM 25 MR. WHITE: I move to admit Exhibit 48.

1 THE HEARING OFFICER: 48 is admitted.
2 (Exhibit 48 admitted into evidence.)
3 BY MR. WHITE:
4 **Q Please turn to what's been marked as Exhibit 49.**
09:57AM 5 A Okay.
6 **Q What do we see here?**
7 A This is a Notice of Denial of Application from
8 Department of Health and Human Services, Division of Public and
9 Behavioral Health.
09:57AM 10 **Q And who is it addressed to?**
11 A It is addressed to Giselle Platfoot, Vida Spa, LLC.
12 **Q And we don't need to go through all of them right now,**
13 **but do we see a heading down there it says "facts supporting the**
14 **denial"?**
09:58AM 15 A Yes.
16 **Q Okay. And then I'll ask you to --**
17 THE HEARING OFFICER: Go ahead.
18 BY MR. WHITE:
19 **Q I'll ask you, did you compile this as part of your**
09:58AM 20 **investigation in this case?**
21 A Yes, I did.
22 **Q Did somebody send this to you?**
23 A Yes, they did.
24 **Q Do you remember who it was?**
09:58AM 25 **If you can't, that's okay.**

A I can't remember her name but she's the manager of -- she manages the two inspectors, the facility inspectors.

MR. WHITE: Okay. I move to admit Exhibit 49.

THE HEARING OFFICER: 49 is admitted.

09:58AM (Exhibit 49 admitted into evidence.)

BY MR. WHITE:

Q And please have a look at what's been marked as Exhibit 50.

A Okay.

09:59AM **Q What is this document?**

A This is a Notice of Temporary Suspension and Show Cause Hearing, suspension notification of nonrenewal of business license from the business department at Clark County.

Q And who is that addressed to?

09:59AM A It is addressed to Giselle Platfoot, Vida Spa, LLC.

Q Okay. Does it look like they gave some reasons for why they -- why they suspended their business license?

A Yes.

Q Okay. And did somebody send this to you or did you

09:59AM **somehow compile it as part of your investigation of this case?**

A Yes, that's correct.

MR. WHITE: Okay. I move to admit Exhibit 50.

THE HEARING OFFICER: 50 is admitted.

(Exhibit 50 admitted into evidence.)

///

1 BY MR. WHITE:

2 **Q Please take a look for a moment at what's been marked as**

3 **Exhibit 51.**

4 A Okay.

10:00AM 5 **Q What are these?**

6 A These are photos that I took during the on-site

7 inspection on June 23rd, 2021.

8 **Q Okay. I think we saw some of these earlier. They are**

9 **in black and white, but these are the photos you took, you said?**

10:00AM 10 A Yes.

11 MR. WHITE: Okay. I move to admit Exhibit 51.

12 THE HEARING OFFICER: 51 is admitted.

13 (Exhibit 51 admitted into evidence.)

14 BY MR. WHITE:

10:01AM 15 **Q Please take a look at what's been marked as Exhibit 52.**

16 A Okay.

17 **Q What are these? There are a few of them. What is this**

18 **that we're looking at?**

19 A These are photos that I took during the on-site

10:01AM 20 inspection on October 27th, 2021, with the Pharmacy Board.

21 **Q I will note that -- and these were taken at the on-site**

22 **inspection of Vida Spa; is that correct?**

23 A At Vida Spa, correct.

24 MR. WHITE: Okay. I move to admit Exhibit 51 -- excuse

10:01AM 25 me, 52.

1 THE HEARING OFFICER: 52 is admitted.
2 (Exhibit 52 admitted into evidence.)
3 BY MR. WHITE:
4 **Q And please have a look, Ms. Friedman, at what's been**
10:02AM 5 **marked Exhibit 53.**
6 A Okay.
7 **Q What are these that we see, these documents?**
8 A These are invoices that I received from Direct
9 Compounding and Outsourcing.
10:02AM 10 **Q Okay. Did you receive these in response to a request or**
11 **a subpoena?**
12 A Yes, I did.
13 **Q Okay. And these show you -- these are orders, it**
14 **looks -- what are these? These are orders from Vida Spa and/or**
10:02AM 15 **Dr. Phillips to Direct Compounding?**
16 A That's correct.
17 MR. WHITE: Okay. I would move to admit Exhibit 53.
18 THE HEARING OFFICER: Give me just a moment.
19 Okay. 53 is admitted.
10:03AM 20 (Exhibit 53 admitted into evidence.)
21 BY MR. WHITE:
22 **Q Please take a look, Ms. Friedman, at what's been marked**
23 **as Exhibit 54.**
24 **Put it up.**
10:03AM 25 **We're going to put it up on the screen for you,**

1 **Ms. Friedman.**

2 **Ms. Friedman, what are we seeing here?**

3 A This is a list of medications ordered from McKesson

4 Medical-Surgical, Incorporated, Maryanne Phillips, Vida Spa,

10:05AM 5 January 1st, 2019, through July 9th, 2021.

6 **Q Okay. How do we know those exact dates? Are you --**

7 A It's listed on the top of the spreadsheet.

8 **Q Okay. Now, how were these -- well, first of all, were**

9 **these sent to you in response to a request or an order or subpoena**

10:05AM 10 **of some sort?**

11 A Yes. Yes.

12 **Q Okay. And this is a pharmacy; is that correct?**

13 A Yes.

14 **Q Okay. And how were these sent to you?**

10:06AM 15 A This spreadsheet was sent to me through email.

16 **Q Okay. At the moment you don't see the email, the actual**

17 **email, but we will get it.**

18 **But you did receive it in an email; correct?**

19 A Correct.

10:06AM 20 MR. WHITE: Okay. And -- indulgence, please.

21 THE HEARING OFFICER: Sure.

22 MR. WHITE: All right. Thank you, Ms. Friedman.

23 BY MR. WHITE:

24 **Q So this was sent directly to you in an email which we**

10:07AM 25 **will show in a moment.**

1 A Yes.

2 **Q Is that correct? Okay. All right.**

3 MR. WHITE: I would move to admit Exhibit 54. And if

4 you want to do it provisionally, we'll get the email right now

10:07AM 5 too.

6 THE HEARING OFFICER: 54 will be admitted.

7 (Exhibit 54 admitted into evidence.)

8 MR. WHITE: Okay. Then with regards to Exhibits 55

9 through 89, the same questions I had for Ms. Friedman before.

10 BY MR. WHITE:

11 **Q Ms. Friedman, so at the time of compiling these records**

12 **requesting or subpoenaing these records, were you investigating**

13 **more than just Dr. Phillips?**

14 A Yes, I was.

10:08AM 15 **Q Okay. So you were investigating Vida Spa and some other**

16 **providers, like you stated before; is that right?**

17 A That's correct.

18 **Q Okay. But these were in response to, like I said,**

19 **either some order or request or subpoena in your investigation of**

10:08AM 20 **this case also, for Dr. Phillips; is that right?**

21 A That's correct. That's correct.

22 MR. WHITE: I would move to admit Exhibit 55 through 89.

23 THE HEARING OFFICER: And so I'm going to make the same

24 clarification for the record.

10:08AM 25 MR. WHITE: Okay.

1 THE HEARING OFFICER: Those are going to be admitted
2 provisionally until I actually have a chance to look at them. And
3 if for whatever reason later on I determine that they are just not
4 relevant or that there is some other evidentiary problem with
10:09AM 5 them, I'll make that clear in the record.
6 I don't anticipate that, but for now I'm just going to
7 say that they are provisionally admitted.
8 MR. WHITE: Thank you.
9 (Exhibits 55 through 89 provisionally
10:09AM 10 admitted into evidence.)
11 BY MR. WHITE:
12 **Q Last one. Please take a look, Ms. Friedman, at what's**
13 **been marked as Exhibit 90.**
14 A Okay.
10:09AM 15 **Q What do you have in front of you, Ms. Friedman, can you**
16 **tell us?**
17 A Yes, it's a subpoena duces tecum that I created for
18 Vida Spa, LLC, or authorized representative, in the matter of the
19 investigation of Maryanne Phillips, for properly authenticated and
10:10AM 20 complete copies of any and all health care records of all 72
21 patients listed on the sedation log sheet attached as Exhibit 1.
22 **Q And you personally sent this to Vida Spa?**
23 A I hand-delivered it.
24 **Q Okay. And it looks like we have -- let's see. One**
10:11AM 25 **second.**

1 **Did you also do an affidavit of service?**
2 A Yes.
3 **Q Okay. For some reason I can't find that. Oh, here it**
4 **is, at the very back.**
10:11AM 5 **Is that what we see on page 2329?**
6 A Correct.
7 **Q Okay. Also, did you -- looks like you attached**
8 **something. What did you attach as an exhibit so that they would**
9 **be able to fulfill your request?**
10:11AM 10 A I attached a copy of the sedation log that had been
11 discovered on the June 23rd, 2021, inspection, on-site inspection
12 at Vida Spa.
13 **Q Okay. And so you were primarily going -- you were**
14 **trying to find the medical records for all of these 72 patients;**
10:12AM 15 **is that a fair assessment?**
16 A That's correct.
17 **Q Okay. Would those be the medical records that right now**
18 **have been provisionally admitted into the record?**
19 **When I speak about that, I'm talking about Exhibits 15**
10:12AM 20 **through 47 and Exhibits 55 through 89.**
21 A That's correct.
22 **Q Okay. So those names match up to -- just to clarify it**
23 **a little bit, those names on the sedation log that you were**
24 **requesting match up to the medical records, the vast amount of**
10:13AM 25 **medical records we have right now as those exhibits?**

1 A That's correct.
2 **Q Well, just for instance, I don't want to mention any**
3 **medical -- any patient's names, but if you take a look at the**
4 **first one on page 2325, and really, in date, it's not the first**
10:13AM 5 **one, but I just want to take a look.**
6 **We have a patient with the initials GV, and I think we**
7 **can find that person in here.**
8 **If you look at exhibit -- you don't even have to look at**
9 **the whole exhibit, but we have an exhibit list here. Is that the**
10:14AM 10 **same person who is part of Exhibit 23, GV?**
11 A Yes.
12 **Q Okay. Some of them are hard to read. Let's go down to**
13 **the bottom of the page. We have EG. Looks like she's on this**
14 **sedation log sheet with a date of 6/23/21.**
10:14AM 15 A Correct.
16 **Q And is that the same person who is in Exhibit 37?**
17 A That's correct.
18 MR. WHITE: Okay. Move to admit this is Exhibit 90.
19 THE HEARING OFFICER: 90 is admitted.
20 (Exhibit 90 admitted into evidence.)
21 THE HEARING OFFICER: And just so you know, Mr. White,
22 this testimony wipes out most of what I've said is provisional
23 admission of the others. I'll wait till I actually get a chance
24 to look at all of those --
10:15AM 25 MR. WHITE: Okay.

1 THE HEARING OFFICER: -- but that ties it together for
2 me.
3 MR. WHITE: Yeah, I think if I can just kind of narrow
4 it for just one moment, I want to explain, I'm not going to go
10:15AM 5 through every patient with Ms. Friedman.
6 THE HEARING OFFICER: I understand.
7 MR. WHITE: I just wanted -- I think we all wanted to
8 show the impact of why we're here today for a summary suspension
9 hearing.
10:15AM 10 THE HEARING OFFICER: I get it.
11 MR. WHITE: That's why you see that many patients'
12 separate exhibits.
13 THE HEARING OFFICER: You are talking about a lot of
14 people.
10:15AM 15 MR. WHITE: Yeah.
16 THE HEARING OFFICER: If what was happening was
17 inappropriate, it happened a lot, is the point, I guess.
18 MR. WHITE: Okay. All right. Thank you.
19 You know, I'm going to call an audible right now.
20 THE HEARING OFFICER: Good.
21 MR. WHITE: We have our -- well, we can take a break
22 too.
23 I have another witness that's here. We can maybe -- I
24 was going to go through all of Ms. Friedman, I have a few more
10:15AM 25 things to ask her, but I think I'm going to bring, when we come

1 back from the break, if it's okay, going to call the other witness
2 and then have Ms. Friedman come back.
3 THE HEARING OFFICER: I don't have any concerns with
4 that, but I was looking at the clock and thinking that our
10:16AM 5 reporter is probably ready for a break, and so it's a good
6 breaking point. And I don't have any concerns about calling
7 another witness and then bringing Ms. Friedman back.
8 Ms. Friedman, you just need to hang around. And again,
9 don't talk -- don't discuss your testimony with anybody else who's
10:16AM 10 a potential witness in the case.
11 THE WITNESS: Okay.
12 MR. WHITE: You okay with that, Ms. Friedman? You're
13 okay with delaying the rest of your testimony?
14 THE WITNESS: Yeah. Yes. Just give me a call again and
10:16AM 15 I'll come back in when you are ready.
16 MR. WHITE: Thank you. We're going to take about a
17 10-minute break?
18 THE HEARING OFFICER: Yeah.
19 MR. WHITE: Yeah, okay. Thank you.
10:16AM 20 And you said 90 was admitted, right? I didn't put my
21 little mark.
22 THE HEARING OFFICER: Yes. 90 is in, which is -- that's
23 all of your exhibits at this point?
24 MR. WHITE: Yes.
10:16AM 25 THE HEARING OFFICER: Okay. So all of your exhibits are

1 admitted. And with that let's go off the record.
2 (A recess was taken.)
3 THE HEARING OFFICER: Back on the record in the matter
4 of investigation of Maryanne DeForest Phillips, M.D. We just
10:33AM 5 finished up with the initial testimony of Ms. Friedman, and
6 Mr. White has let me know, I think he still intends to call a
7 different witness and then come back to Ms. Friedman.
8 Is that still the plan?
9 MR. WHITE: Yes.
10:33AM 10 THE HEARING OFFICER: All right. Unless you have any
11 other housekeeping that has come up during the break, you can call
12 your next witness.
13 MR. WHITE: I am going to call my next witness.
14 Hold on one second here. I'm getting some messages from
10:33AM 15 down south. Sorry about that.
16 THE HEARING OFFICER: That's all right.
17 MR. WHITE: I am going to -- this is a former patient.
18 I'm going to explain really quick. This is a former patient of
19 Dr. Phillips.
10:34AM 20 Typically, as you know, Mr. Woodman, we keep those names
21 confidential, usually referred to in a patient designation,
22 right? Along with the complaint.
23 THE HEARING OFFICER: Right.
24 MR. WHITE: Patient designation we do not have yet for
10:34AM 25 the complaint, which we will have, obviously, but she is one of

1 those patients listed in the complaint.
2 I'm going to try and keep her identity confidential. I
3 can refer to her as the witness we see in Exhibit 22, or, excuse
4 me, the patient we see in Exhibit 22.
10:34AM 5 The other way I can do it is, Court Reporter, if Madam
6 Court Reporter feels more comfortable swearing her in with her
7 actual name, but if -- we can do that, or if we can maybe strike
8 it or redact it, we can do that.
9 THE HEARING OFFICER: Let's do that. We'll use her name
10:35AM 10 just for swearing in purposes, and then we'll have our reporter
11 redact her name and we'll just refer to her as the patient from
12 Exhibit 22.
13 MR. WHITE: Yeah, or -- exactly. Or we can make her --
14 she can be Patient A, when we have patient designation, or I can
10:35AM 15 refer to her as Patient A.
16 THE HEARING OFFICER: That's fine.
17 MR. WHITE: We'll make her -- that's perfect. She'll be
18 Patient A.
19 Let me text them. Is she down there ready to go?
10:35AM 20 UNIDENTIFIED SPEAKER: Yes.
21 MR. WHITE: If you can bring her in, that would be
22 great.
23 THE HEARING OFFICER: Ma'am, can you hear me all right?
24 PATIENT A: Yes, sir.
10:36AM 25 THE HEARING OFFICER: Ma'am, I'm Charles Woodman. I'm

the hearing officer assigned to this case. We're in the Medical Board's office up in Reno. I think you're either the only person in that room or almost the only person in that room, so if you want to take your mask off, I think you can feel free to do that.

10:36AM It will probably help our court reporter here who needs to hear what you're saying.

PATIENT A: Okay. Yes, sir. That's fine.

THE HEARING OFFICER: Thank you, ma'am. I'm going to have you begin just by raising your right hand, and our court

10:37AM reporter will swear you in so that you can testify as a witness in this case.

PATIENT A

called as a witness, having been duly sworn,

testified remotely as follows:

THE WITNESS: Yes.

THE HEARING OFFICER: Thank you, ma'am.

And, ma'am, I'm going to have you state your name for

10:37AM the record, but then I want you to know, because it is Board policy and there's law to support it, we're going to keep your name out of the record. It will be redacted, but it needs to be there once officially and then we're going to refer to you after that as Patient A. But could you state and spell your name,

10:37AM please, first and last name.

1 THE WITNESS: Yes, sir. My name is XXXXXXXXXXXX,
2 spelled XXXXXXXXX. Last name is XXXXXX as in XXXXX, XXXXX as in
3 XXXXXX.
4 THE HEARING OFFICER: Thank you very much, ma'am. And
10:38AM 5 again, if you hear us talking about Patient A, we're talking about
6 you. All right?
7 THE WITNESS: Yes, sir.
8 THE HEARING OFFICER: Again, we've -- it's strange in
9 the sense that we want to make sure we know who you are in the
10:38AM 10 record, but we're also -- when the record is printed out, your
11 name will be redacted.
12 THE WITNESS: Yes, sir.
13 THE HEARING OFFICER: All right. Mr. White now will
14 start to ask you questions.
10:38AM 15 MR. WHITE: Thank you, Patient A.
16
17 DIRECT EXAMINATION
18 BY MR. WHITE:
19 Q My name is Don White. I'm the attorney for the
10:38AM **20 Investigative Committee and for the Board. And just to let you**
21 know, I am the person that we spoke briefly last week on the
22 phone.
23 A Okay.
24 Q Okay. I'm just going to ask you a few questions about
10:39AM **25 what you experienced, but I want to establish some things first.**

Okay?

A Okay.

Q So were you a patient at Vida Spa?

A Yes.

10:39AM **Q Okay. And more specifically, were you a patient of Dr. Phillips?**

A Yes.

Q Okay. I'd like to ask you just to briefly explain to us what brought you here today.

10:39AM A Well, my massage therapist, she knew where I had got my surgery done at, and she seen in the news that they had shut down. And I had said, "Wait. What? Why?"

She had then told me, well, one of the doctors there, they were giving a drug that wasn't supposed to be given during

10:40AM sedation and they were trying to cover up, as well as the business wasn't licensed for surgeries such as the BBL or anything invasive.

So I said, "Oh, no way." And then I automatically thought nobody's talked about it being my doctor, anything like

10:40AM that.

So then at that time, my best friend and my daughter were there while I was getting my massage, they looked it up and it turns out it was my doctor and it was her assistant, that were, in fact, doing that.

10:40AM **Q Okay. Let me clarify something. What do you mean when**

1 you say "BBL"?
2 A So I had bought liposuction -- I'm sorry -- Lipo 360,
3 along with the BBL, so with a fat transfer.
4 Q Is BBL the initials for, sometimes what you hear --
10:40AM 5 A Yes.
6 Q -- around --
7 A I'm sorry.
8 Q -- what is that, initials?
9 A I'm sorry. It's a Brazilian butt lift.
10:41AM 10 Q Thank you. Thank you.
11 Patient A, just this is -- I know you've probably
12 never -- you may not have been in a situation like this where
13 you're sitting on a witness stand, albeit it's a little less
14 formal than a courtroom, but I'm just going to ask you that -- and
10:41AM 15 I'm going to do the same, I'm going to be courteous too, we have
16 to be courteous to the court reporter. Let's try not to talk over
17 one another; okay?
18 A Yes.
19 Q She can only take down one voice at a time.
20 A Okay.
21 Q And I will do my best too.
22 Okay. So you had referred to your massage therapist as
23 telling you they had been shut down.
24 Are you aware of how she knew that?
10:41AM 25 A No.

1 **Q Okay.**
2 A Oh. I'm sorry. Yes, she told me, through the news.
3 **Q So she saw something on TV?**
4 A Yes.
10:41AM 5 **Q So I think you kind of started to mention it, but, for**
6 **what exactly did you pay Dr. Phillips and Vida Spa, what did you**
7 **pay to have done?**
8 A It was a Lipo 360 with fat transfer. Also it would be
9 the Lipo 360 and BBL, Brazilian butt lift.
10:42AM 10 **Q Okay. When you say Liposuction 360, or Lipo 360 for**
11 **short, do you understand what that means?**
12 A To my understanding, the day that I got there, the
13 doctor told me that she was going to be taking fat from parts of
14 my body and transferring it into my bottom.
10:42AM 15 **Q Okay. And does Lipo 360 refer to -- when they say 360,**
16 **does that mean they are going to take fat away from your entire --**
17 **the circumference of your body around your waist and your back?**
18 A Yes, they can take it from numerous places. From what
19 she told me, they could take it from my chin, my arms, my thighs,
10:43AM 20 my back, so wherever they feel it's easier for them to grab it
21 where I need it.
22 **Q And did you ask for all those other things or just the**
23 **Lipo 360?**
24 A No, I asked for the BBL. Everything else she pretty
10:43AM 25 much just marked up my body the day of and just said this is where

1 we're taking it from. And that's what she did.

2 **Q Okay. You have some binders in front of you. We only**

3 **really need one. It's the one that says Volume 1 on it.**

4 **Do you see that in front of you? Or, actually, are you**

10:43AM 5 **already turned to Exhibit 22?**

6 A Oh, can I change it?

7 This one?

8 Yes, sir.

9 **Q Okay. Thank you.**

10:44AM 10 **Now, just for further identification purposes, do you**

11 **see the first page of that, and does it say Vida Spa, Appointment**

12 **Cancellation Policy for Vida Spa?**

13 A Yes, sir.

14 **Q And I want you to go down to the bottom of the page. Is**

10:44AM 15 **that your signature or somebody else's signature?**

16 A That is my signature, sir.

17 **Q Okay. And then below it, looks like you printed your**

18 **name too?**

19 A Correct, sir. Yes.

10:44AM 20 **Q And also a date of, looks like May 20th, 2021?**

21 A Yes, sir.

22 **Q And just to get that out of the way, was that also the**

23 **day of your surgery?**

24 A Yes, sir.

10:44AM 25 **Q And so were -- well, we'll get to that in a second.**

1 **So I'm going to try to take you through your entire**
2 **experience, from start to finish. It shouldn't take too long but**
3 **I do want to start with the beginning.**
4 **And so I want to know, first of all, how did you find**
10:45AM 5 **out about Vida Spa?**
6 A Through Instagram, through social media.
7 **Q Okay. So was it some kind of public page that they had,**
8 **that they used for advertising?**
9 A Yeah, they came up in my news feed.
10:45AM 10 **Q News feed. Yeah. So it came up in your news feed, and**
11 **did you click on that and start reading about Vida Spa?**
12 A Yes, sir. That's correct.
13 **Q And how did you determine that Vida Spa was going to be**
14 **the place that you were going to go for this type of surgery?**
10:46AM 15 A So I was looking around and they were here in Vegas, and
16 so I looked at everything that they were posting. And everything
17 looked so good, so easy, so then I decided to contact them.
18 And then that's when they went ahead and they -- I asked
19 them how much. They gave me a price.
10:46AM 20 Then when I finally decided to go ahead and go through
21 it, I called and made an appointment and I went in.
22 **Q Okay. Let's just back up a little bit though. Did you,**
23 **were there comments or reviews to look at in the Instagram feed**
24 **that you say you looked at?**
10:46AM 25 A Yes.

1 Q Did you take a look at those?
2 A I did.
3 Q Okay. And those, did those appear to be good reviews,
4 good comments that eventually drew you to go to Vida Spa?
10:47AM 5 A Yes.
6 Q You had said you were looking around at other places
7 too. Is that what you just mentioned?
8 A Yes.
9 Q Okay. And was Vida Spa less expensive, the same or more
10:47AM 10 expensive than the other ones you were looking at?
11 A It was way less.
12 Q Way less.
13 A Yes.
14 Q Give us a range, so -- I mean, we can look at what you
10:47AM 15 paid.
16 A Yes.
17 Q Give me a moment, here.
18 I would like you to turn to page 261 of the exhibit.
19 You'll see some numbers at the bottom right.
10:48AM 20 A Yes, hang on a second.
21 Yes, I do see it, sir.
22 Q Do you see it? Okay.
23 If you look in the upper right portion there, you see
24 where it says there was a deposit made?
10:48AM 25 A (Nodding head affirmatively).

1 Q Hard to read, but what is that? How much did you pay
2 for a deposit?
3 A A thousand dollars.
4 Q Okay. And then it looks like the estimated price is how
10:48AM 5 much?
6 A It says -- I'm not sure if it says 6,650.
7 Q Okay. That's what I see too.
8 A Yeah.
9 Q So is that what it ended up being?
10:49AM 10 A No.
11 Q The price was more or less?
12 A It was less.
13 Q Okay. All right. Were you required to pay the balance
14 on the day of surgery?
10:49AM 15 A Yes, sir.
16 Q Okay. And I guess I probably ought to point out that
17 this, this piece of paper we're looking at with this estimate on
18 here, what is the date on the left, upper left portion?
19 A 3/18/21.
10:49AM 20 Q Was that, to the best of your recollection, is that the
21 first time you went in to see anybody at Vida Spa?
22 A Yes, sir. That was my only consultation.
23 Q Okay. And just so we can clear it up, is that your
24 name? It says patient name right below it.
10:50AM 25 Without reading your name, is that your name?

A Yes, sir.

Q Okay. All right.

So what did you end up paying for the procedure?

A So I ended up paying, when I got there, 5,500.

10:50AM **Q Okay. So they gave you, looks like, by my math, looks like they gave you about a $150 discount, from the estimate?**

A That was, when I got -- can I answer that in like how it happened?

Q Yes. I'll stop you if anything --

10:50AM A Okay. Yes, sir.

So when I got there, they did tell me it was going to be 6,650. And I said, "She told me at my consultation that it was 6500 in total."

And she said, "Oh." And then got quiet. She talked in

10:51AM Spanish, which I don't know what was being said to the other lady, and then they said, "Okay." And that was it.

Q Okay. All right. So they basically honored something that maybe was a verbal -- something told to you verbally before that?

10:51AM A Yes.

Q Okay. Thank you. Thank you for that clarification.

So I think we just established that the first date that you went there, I just want to make sure for the record, the first date that you went there was March 18th, 2021?

10:51AM A Yes, sir.

1 **Q Okay. And that's when you initiated contact; before**
2 **that you had not spoken to anyone with Vida Spa?**
3 A No.
4 **Q Who did you speak with, if you can recall?**
10:51AM 5 A The day of my consultation it was, I believe, the
6 manager, or maybe owner, Giselle.
7 **Q Would that be Ms. Giselle Platfoot?**
8 A Yes.
9 **Q Okay. Did you speak with anyone else?**
10:52AM 10 A No.
11 **Q Okay. Take us through a little bit about that**
12 **conversation, and I'll ask you the questions.**
13 **Did Ms. Platfoot have you disrobe and look at you or**
14 **anything?**
10:52AM 15 A It was weird. At the very end she did, after she talked
16 to me.
17 **Q So she -- just for clarification. She talked to you.**
18 **Did you guys talk about price?**
19 A Yes.
10:52AM 20 **Q Okay. And did you talk about what the procedure would**
21 **be?**
22 A Yes.
23 **Q And did you talk about any kind of sedation being**
24 **offered for that procedure?**
10:53AM 25 A No.

1 **Q Okay. And did you have a concern at that point about**
2 **how that would be done without any sort of sedation or some other**
3 **way of, kind of, keeping down the pain?**
4 A She told me that, the day of my consultation, I asked
10:53AM 5 her about the down time. She said two weeks is what I would be
6 down for, maybe less, when I can go back to work. She did not
7 discuss to me about any sedation.
8 **Q Okay. And did she explain to you exactly what can be**
9 **expected or what the procedure is of a liposuction?**
10:53AM 10 A To my recollection, kind of. It wasn't -- it was very
11 vague. It was more like we're going to do Lipo 360. It can be
12 from your torso or your inner thighs, your thighs, your back, your
13 arms, even your chin. That's what she told me.
14 **Q So did she explain to you how they remove that fat from**
10:54AM 15 **those areas?**
16 A No.
17 **Q So fair to say that you were at that point not aware**
18 **that there would be what's called a cannula or what looks like**
19 **kind of a wand that would be under your skin, sucking fat out of**
10:54AM 20 **your body?**
21 A I was aware of it because I was already doing research
22 of what, how the procedure is, but not done -- but not told by
23 her, no.
24 **Q And did she mention that there would be incisions --**
10:54AM 25 **small -- but incisions to get that wand or cannula inside, under**

1 **your skin?**
2 A No.
3 **Q Okay. And then going back to -- she asked you to**
4 **disrobe at some point?**
10:55AM 5 A She didn't ask me to disrobe. I was wearing a loose
6 dress. And it was literally the end of our conversation, I was
7 already starting to walk out the office. She asked me, "Can you
8 do me a favor? Can you lift up your dress for me?"
9 And so I -- she said, "Just so I can see like what it
10:55AM 10 is, what you would need."
11 So I lifted up my dress and she said "Oh, okay. You are
12 a perfect candidate for what you're doing."
13 **Q Okay. Did you see -- I think you've answered this, you**
14 **didn't really talk to anyone else. Did a nurse come by and take a**
10:55AM 15 **look at you and diagnose what you needed to have done in this**
16 **procedure?**
17 A No, sir. That was the end of it.
18 **Q Did you see Dr. Phillips at that point? Did she come**
19 **out or was she present to take a look at you and diagnose you?**
10:55AM 20 A No, sir, I had no idea who was even going to do my
21 surgery. Literally, it was very vague. And I honestly thought
22 they were going to call me for another consultation because it was
23 month away, but not one word.
24 **Q Okay. And I think we'll get to that in a little bit**
10:56AM 25 **too, but let me ask you, if you can, estimate the amount of time**

1 **you think you spent in Vida Spa during that first visit when you**
2 **spoke with Ms. Platfoot.**
3 A The consultation itself was maybe, max, 10, 15 minutes,
4 and that's even pushing it.
10:56AM 5 **Q Okay. Would you be able to recognize Ms. Platfoot if**
6 **you saw her?**
7 A Yes, sir.
8 **Q Okay. So March 18th, you had this consultation you just**
9 **spoke about.**
10:57AM 10 **Oh, at the end of it, did they give you any paperwork?**
11 A Yes.
12 **Q What, if you can remember, what did Ms. Platfoot give**
13 **you as paperwork after the consultation?**
14 A Well, after I made my thousand dollar deposit she gave
10:57AM 15 me my blood work paperwork to go to the lab, I guess, that they
16 work with. And then it was just a list of items that I would need
17 for the surgery, for aftercare.
18 **Q Okay. And to the best of your recollection, when was**
19 **your surgery scheduled -- or, actually, let me ask this first.**
10:57AM 20 **Let me establish this.**
21 **Did you make an appointment or did somebody make an**
22 **appointment for you, for your surgery, before you left that day on**
23 **the 18th of March?**
24 A Yes, sir.
10:58AM 25 **Q Okay. Who was that?**

1 A It was the receptionist, and Giselle was standing right
2 next to her.
3 **Q What was the date that they gave you for your surgery?**
4 A The original date was 5/10, I believe at 10:30 a.m.
10:58AM 5 **Q May 10th at 10:30 a.m.?**
6 A Yes.
7 **Q Okay. And jumping ahead a little bit, when did you**
8 **actually have the surgery?**
9 A May 20th.
10:58AM 10 **Q So what, if you know, what was the cause of the 10-day**
11 **pushback, for lack of a better term?**
12 A Well, I didn't get approved for the 10th for my vacation
13 time. So I called them immediately, I think it was like maybe
14 two, three weeks max after I had already scheduled it.
10:58AM 15 And they said the only opening they had was for May 20th
16 at 10:30 a.m., so I took that appointment.
17 **Q Okay. If you recall, do you know what day you went --**
18 **well, did you go get your blood work as instructed by Vida Spa?**
19 A Yes, sir, I did.
10:59AM 20 **Q Okay. And I ask you to turn to page 250 of Exhibit 22.**
21 **Does that appear -- well, you see a name of a laboratory at the**
22 **top is -- it says Clinical Pathology Laboratories. Is that where**
23 **you went?**
24 A Yes, sir.
11:00AM 25 **Q And it looks like -- it's hard to read. Do you recall**

what date you went?

A I believe it was maybe the 14th.

Q Okay. Of?

A Of May.

11:00AM Q Okay. Thank you.

Oh, you're right. Let's turn to page 253. I see a much better copy of something here.

A Okay.

Q Do you see where it says collection date and time? Sort

11:00AM of the middle, about one-third down the page?

A Yes.

Q Okay. What date do you see there?

A I'm so sorry.

Q I'll just call it out for you. You see where it says

11:01AM May 12th, 2021?

A Yes.

Q Okay. So you're -- yeah, right in that date. Okay.

A Okay.

Q And it looks like it was reported on May 14th, 2021.

11:01AM Okay.

So you did do as you were told, from Vida Spa, to go get your blood work done.

A Yes.

Q During the time between -- other than you calling them

11:01AM to talk to them about changing your appointment, because you

1 **didn't get the time off from work, did anybody from Vida Spa**
2 **contact you at all between March 18th and May 20th?**
3 A Yes, sir.
4 **Q Okay. Who called -- who contacted you?**
11:01AM 5 A I believe it was the receptionist. They tried to
6 reschedule my appointment from May 20th to May 13th.
7 **Q Okay. So it was going from -- originally it had gone**
8 **from May 10th to May 20th, now they were trying to move it up a**
9 **week?**
11:02AM 10 A Yes, sir.
11 **Q Okay. And did they give you a reason why or anything?**
12 A They just told me the doctor had something to do.
13 **Q Okay. And so they needed to schedule you that because**
14 **of the doctor's schedule, the best to your knowledge?**
11:02AM 15 A Yes, sir.
16 **Q And what became of that date?**
17 A I couldn't go. I couldn't. My boss didn't approve my
18 vacation a week early.
19 **Q Okay. So at that point did you just end up keeping the**
11:02AM 20 **May 20th date at 10:30 a.m.?**
21 A First, they were trying to cancel it. And then I said
22 no, this is not something -- this is not a normal procedure, this
23 is something I need time off for. I was already granted the 20th
24 for two weeks. So I said is there anything that we can do?
11:03AM 25 And then they said, well, let me call you back.

1 About an hour later, Giselle called me back and said can
2 you come in at 5:30 in the evening instead. And I said is that
3 normal, for me to be there that late? She said yes. The doctor
4 is willing to come back in and do it on that date, because of your
11:03AM 5 work schedule.
6 So I said okay, that's fine.
7 Q Okay. And so other than maybe the doctor having some
8 sort of other -- other engagement or something, you have no idea
9 why they cancelled your time that you wanted on the 20th of May at
11:04AM **10 10:30 a.m.?**
11 A Correct, sir.
12 Q Okay. Now, was that the only contact that you had with
13 Vida Spa, between the dates of March 18th and May 20th?
14 A I had called numerous times about my blood work because
11:04AM 15 they would not let me know anything, if my blood was okay, if I
16 was good enough to do the surgery.
17 I was the one calling them; but for them reaching out,
18 no, not one phone call.
19 Q Okay. That was going to be my follow-up question. So
11:04AM **20 they never reached out to you?**
21 A No, sir.
22 Q Except for the moving around of the appointments, that
23 was it?
24 A Correct, sir.
11:04AM **25 Q Never reached out to you to check on you, see how you**

1 **were doing?**
2 A No.
3 **Q Never reached out to you to even ask if you were still**
4 **ready and willing to go through the surgery?**
11:04AM 5 A Not, no, not a phone call. No, sir.
6 **Q Okay. Give me one moment. I'm sorry.**
7 **So is it fair to say your next visit to Vida Spa was the**
8 **day of your surgery on May 20th, 2021?**
9 A Yes, sir.
11:05AM 10 **Q Did you arrive at 5:30 p.m.?**
11 A Yes, sir. Maybe a little bit before.
12 **Q Okay. Did you drive there yourself? Did you have**
13 **somebody drop you off? How did that go?**
14 A No, my best friend and my daughter. My best friend
11:05AM 15 drove me and my daughter. They came in the building with me.
16 **Q When you walked in, was the -- well, first of all, was**
17 **the door unlocked or locked at 5:30 p.m.?**
18 A It was unlocked, sir.
19 **Q So you walked in at that point, and you said you had**
11:06AM 20 **your best friend and your daughter with you?**
21 A Correct, yes, sir.
22 **Q Did you -- who did you see?**
23 A There was about three or four receptionists at the front
24 counter.
11:06AM 25 **Q Okay.**

1 A That's who I saw.
2 **Q I think you cut out for a second there. Sorry.**
3 **So three to four receptionists?**
4 **Not your fault.**
11:06AM 5 A Yes, sir. At the front counter, three to four
6 receptionists at the front counter.
7 **Q All right. And were there any other patients there? If**
8 **you know.**
9 A It's my recollection maybe one was leaving. One was
11:06AM 10 leaving when I was walking in.
11 **Q Okay. Was Giselle Platfoot there?**
12 A Yes. Yes, sir.
13 **Q Did you have an opportunity to speak with her?**
14 A She came in while the doctor was marking up my body for
11:07AM 15 the surgery.
16 **Q Okay. So did you wait in the waiting room for a little**
17 **bit first?**
18 A I did. I was filling out paperwork.
19 **Q All right. And, well, let's turn to some of that**
11:07AM 20 **paperwork. I'd like you to turn to page 228 in the -- in**
21 **Exhibit 22.**
22 **Again, looks like your name is near the top of that?**
23 A Yes, sir.
24 **Q All right. And could you read to me what this paper,**
11:08AM 25 **this page 228 is titled? It's the bold print.**

1 A Consent For Surgery and Procedures.
2 **Q Consent For Surgery and Procedures. Okay. And also**
3 **looks like what you described before, it's written in, Lipo 360,**
4 **fat transfer to butt. That's what they wrote; correct?**
11:08AM 5 A Correct. Yes, sir.
6 **Q And did you sign it and print your name at the bottom?**
7 A Yes, sir.
8 **Q And the date, as you just described, is the day of your**
9 **surgery, 5/20, 2021?**
11:08AM 10 A Yes, sir. That's correct.
11 **Q Is this paperwork you referred to when you say you were**
12 **filling out paperwork right before your surgery?**
13 A Yes, sir.
14 **Q Was this Consent For Surgery and Procedures ever shown**
11:08AM 15 **to you or given to you before this date? Was it given to you --**
16 **sorry. Let me strike that.**
17 **Was it given to you on March 18th, 2021?**
18 A No, sir.
19 **Q Okay. And at no time between March 18th and May 20th,**
11:09AM 20 **was this handed to you so you could review it?**
21 A Correct, sir. Nothing was given to me until that date.
22 **Q Fair to say then, this is the first time you are**
23 **reviewing and signing these documents, was moments before your**
24 **surgery?**
11:09AM 25 A Yes, sir. That's correct.

1 **Q All right. And then when you're done filling out the**
2 **consent for surgery, what happens? Is that when you go back to**
3 **the room where they did surgeries?**
4 A Correct. Yes, sir. The doctor came in while I was
11:09AM 5 filling out paperwork, as well as I was paying for the procedure.
6 So I was having a little bit of trouble paying for the -- well, my
7 bank only went for 5,000, and I had to pay 5,500. So I was on the
8 phone with my bank so they can approve the extra 500 so they can
9 push it through.
11:10AM 10 So I was waiting on the phone and I seen Dr. Phillips
11 and I believe a lady walking with her to the back.
12 **Q Okay. And eventually, you finished up payment, you**
13 **finished signing the sheets, the consent form that we see here,**
14 **and did somebody lead you to the room, to the back?**
11:10AM 15 A Yes, Dr. Phillips and -- I believe it was her assistant,
16 she was the one who assisted the whole time. She was standing
17 next to me while I was filling out the paperwork, as well as when
18 it was time, her and Dr. Phillips walked me to the back room.
19 **Q Okay. Give us a little bit of a description. Is it --**
11:10AM 20 **is this a big place or a small place? Where is the room located**
21 **in regards to the front desk?**
22 A I definitely -- when I first got in there, I didn't
23 think the surgery was done there. I really thought it was located
24 somewhere in that facility, but when they walked me straight to
11:11AM 25 the back, there's two rooms and my room was to the left. And when

1 I walked into the room, it was -- it would look like the same size
2 of a bedroom, to be honest. There was a bathroom inside the room,
3 and all, when you walk in, is like a divider, and it was black and
4 white. And I believe that's where she marked me up when I got
11:11AM 5 undressed, and that's where she would take the photos for us.
6 But on there was just a table where they were going to
7 do the procedure. And, literally, that's all that was in there
8 except for the machine she was going to use for the procedure.
9 Q Okay. I'm going to ask you a follow-up question in a
11:12AM **10 moment but something just happened with our picture.**
11 Why did the picture get smaller?
12 MS. BYRD: Excuse me. Las Vegas, can we widen the
13 picture, please?
14 BY MR. WHITE:
11:12AM **15 Q Sorry, Patient A. You just got a lot smaller on our**
16 screen, so we're trying to adjust the frame back to the way it
17 was. Give us a moment.
18 A No worries.
19 Q While we're doing that, I'll forge ahead.
11:12AM **20 Patient A, so you described the room to us very well. I**
21 want to ask you kind of how you were feeling, what was going
22 through your mind when you saw that room.
23 A I was scared. I was very, very scared, and at that time
24 kind of concerned, because I did ask the doctor, "This is where
11:13AM 25 you're going to do the procedure?" And she said yes. I said,

1 "And this is normal?" She said yes. She said they do so many of
2 these a day, so for me not to be scared.
3 **Q And did you have any concerns about there being just not**
4 **very much equipment in the room?**
11:13AM 5 A I did, but she said that that's normal, that what I was
6 getting done wasn't anything like a major surgery, is what she
7 said. It wasn't anything very invasive.
8 **Q And then at some point did she just point out we have**
9 **what we need, did she point out the machine that she was going to**
11:13AM 10 **use for the liposuction?**
11 A Yes, sir. She said this is the only machine we need,
12 this is what we're going to use on you. That's how simple it is.
13 **Q You know what, I want to bounce back to something, just**
14 **really quick, and then we'll come back to where we were in the**
11:14AM 15 **room.**
16 **I don't think I asked a follow-up question. As far as**
17 **the consent forms go, would that have been something you would**
18 **have liked to have had earlier so you could have reviewed it, and**
19 **signed it, bring it back to them, with a little more time?**
11:14AM 20 A Yes, sir, I found a lot of things wrong with that. I
21 would think that I would have been able to read, sight read
22 everything before signing, here, go home and read this, read and
23 then sign when you come in.
24 Also what alarmed me also was that they didn't bother to
11:14AM 25 see me before the surgery, just to sit down and discuss with me

what was going to happen from beginning to end.

Q Okay. Very good, thank you. Apparently the only way we're going to fix this screen is we're going to have to hang up and call back. So if we could take maybe just a five-minute

11:15AM **break? Is that a good time anyway?**

Okay. I'm sorry.

THE HEARING OFFICER: Yeah, we'll take five.

MR. WHITE: A little technical difficulty.

So Patient A, give us just a moment. If you need to do

11:15AM anything, now is the time, and I'll see you back here in about five minutes.

THE WITNESS: Okay. Thank you, sir.

MR. WHITE: Thank you.

(A brief recess was taken.)

11:20AM THE HEARING OFFICER: All right. So now that we've got all of our sound working, now we can go back on the record, and Mr. White, you can continue your examination of Patient A.

MR. WHITE: Thank you.

BY MR. WHITE:

11:21AM **Q Patient A, I think you just got through describing the surgery room that you were taken back to.**

A Yes, sir.

Q And that there was, in your opinion, lack of enough equipment; correct?

11:21AM A Yes, sir.

1 Q Okay.
2 A Yes, sir.
3 Q And did that -- did that add to your fear and discomfort
4 at that point?
11:21AM 5 A Yes, sir.
6 Q So is it fair to say that there were a few things kind
7 of making you feel fearful and uncomfortable, which would be --
8 and just answer yes or no -- which would be the 5:30 appointment,
9 coming there in the evening?
11:21AM 10 A Oh, yes, sir. Definitely.
11 Q I think you mentioned that you didn't even think the
12 surgery was going to be in that building or in that part of the
13 building?
14 A Yes, sir. Correct.
11:22AM 15 Q And then being led to a room where you eventually find
16 out, yeah, that's where the surgery is going to be, and there's
17 not a lot of -- doesn't seem like there was a lot of equipment in
18 there for what you were getting done; is that also true?
19 A Yes, sir. Correct. Yes.
11:22AM 20 Q So at this point the combination of all of that is
21 really kind of lending itself to making you very uncomfortable,
22 very fearful?
23 A Yes, sir. Correct.
24 Q All right. Is this the first time that you met
11:22AM 25 Dr. Phillips?

1 A Yes, sir.
2 **Q And just to be really clear, is it also the first time**
3 **you talked to Dr. Phillips?**
4 A Yes, sir.
11:22AM 5 **Q Is this where she -- you had said before that she marked**
6 **up your skin --**
7 A Yes.
8 **Q -- with where they were going to remove and maybe**
9 **transfer the fat, right?**
11:23AM 10 A Yes, sir.
11 **Q Did she do it in that room?**
12 A Yes, sir.
13 **Q So at some point did you -- did she ask you to disrobe**
14 **and did you get in a gown of some sort?**
11:23AM 15 A Yes, sir. Right when I walked in, the bathroom -- when
16 you come in, to the left is a bathroom. And in there they have
17 little packets of -- one to cover your breasts, and then another
18 kind of like a thong underwear garment to put on.
19 And that's what I had put on before I walked to the
11:23AM 20 front, in front of the divider where she took the pictures.
21 **Q Okay. Thank you. I had mentioned a gown. It's not a**
22 **gown, it's almost like a temporary bikini in way, right? Just to**
23 **cover up those areas?**
24 A Yes, sir. I'm sorry. Yes, sir. It was no gown
11:23AM 25 involved. It was that -- that was the only thing I had throughout

1 the whole procedure.

2 **Q Okay. So just to kind of pull it all together, you were**

3 **already uncomfortable and fearful because of what we just talked**

4 **before about, and then would it be fair to say that this added on**

11:24AM 5 **to it that you had -- now you are meeting your surgeon for the**

6 **first time, moments before you are about to lay down on a table**

7 **and have surgery?**

8 A Yes, sir.

9 **Q Would you be able to recognize Dr. Phillips if you saw a**

11:24AM 10 **video or a picture of her?**

11 A Yes, sir, a 100 percent.

12 **Q Okay. Was Dr. Phillips, in your estimation, was she**

13 **comforting to you, or was it kind of more like an abrupt short**

14 **conversation before you laid down and started to get worked on?**

11:25AM 15 A Honestly, I would think both, because she saw how I was

16 kind of hesitant in the beginning, like what, you know,

17 questioning, like this is where we're doing our surgery? You can

18 see that her expression turned to like, okay, I know I need to

19 relax her.

11:25AM 20 She then -- that's when she began to go and explain like

21 what was -- like real quick, what was going to be done and how

22 fast the procedure was.

23 **Q What did she tell you? How fast did she say the**

24 **procedure was going to be?**

11:25AM 25 A She said two to three hours.

1 **Q Let's jump ahead a little bit. Was it three hours long?**
2 A No.
3 **Q What time did you -- and I'm going to go back to more of**
4 **what you went through with the surgery -- but what time did you**
11:25AM 5 **leave the office, Vida Spa?**
6 A It was a little bit -- it was a little bit before
7 midnight.
8 **Q So an arrival time of 5:30, go back -- about what time,**
9 **6 o'clock to go back to the surgery room?**
11:26AM 10 A Yes.
11 **Q And then you left shortly before -- you left Vida Spa**
12 **shortly before midnight?**
13 A Yes.
14 **Q Okay. So when you -- at some point they have you lay**
11:26AM 15 **down on -- is it a table?**
16 A Yeah, looks like a normal doctor's table like you would
17 get a physical on.
18 **Q With the paper rolled out, kind of thing?**
19 A Yes, sir. And underneath, when I walked in, underneath
11:26AM 20 you can see on the corner of the table, it looked like blood, like
21 dried up blood. It could have been Iodine. I don't know.
22 **Q But there was some sort of red substance that had dried**
23 **up?**
24 A Correct. Yes, sir.
11:27AM 25 **Q How did that add to your fear and discomfort at that**

1 **point?**
2 A Not at all. It wasn't easy. Not at all.
3 **Q Say that one more time. Sorry.**
4 A It wasn't easy. Not at all.
11:27AM 5 **Q So you're saying it did add to your fear?**
6 A Definitely. Yes, sir.
7 **Q What happened when you finally laid down on the table?**
8 A I laid down. I had told her how cold it was in there.
9 And she said unfortunately it has to stay that way just due to --
11:27AM 10 on bacteria, so I guess for me not to get bacteria in my open
11 wounds or something about that nature.
12 So I said okay, I understand.
13 And she then began to ask me if I knew of facial -- like
14 these facials that they provide with blood or something like that,
11:28AM 15 on my face. And I then said, oh, my gosh, you know, they do that?
16 And so that's when I realized she was trying to ease my mind or
17 trying to calm me down a little bit. She saw how I was already
18 scared and kind of doubtful about it already.
19 **Q Okay. Was she asking you, if you know, was she asking**
11:28AM 20 **you about other procedures, if you knew about them? Do you think**
21 **she was trying to sell them to you or just trying to kind of**
22 **deflect your attention?**
23 A Yes, sir. Yes, sir. She was trying to sell that. It
24 was the plasma facial, is what it was called.
11:28AM 25 **Q Is that otherwise what is known as a vampire facial?**

1 A Yes. Yes, sir.
2 **Q Okay. And this was -- was this the -- now, okay. Let**
3 **me establish something here.**
4 **Was there a nurse in there with both of you?**
11:29AM 5 A Yes, sir.
6 **Q Okay. Who was up-selling you on other procedures?**
7 A It was just Dr. Phillips that mentioned that.
8 **Q Okay.**
9 **Oh, I need to ask you this.**
11:29AM 10 **Did Dr. Phillips mention sedation at any point before**
11 **your surgery?**
12 A No.
13 **Q And more specifically, did she mention that you would be**
14 **sedated with propofol?**
11:29AM 15 A No, sir. No.
16 **Q Did someone at any point, while you were laying down**
17 **there on the table, did they insert an IV in your arm?**
18 A Yes.
19 **Q Who was that?**
11:30AM 20 A It was her assistant.
21 **Q And did that assistant explain to you what was -- what**
22 **they were putting that IV in for?**
23 A Yes, sir.
24 **Q What was it?**
11:30AM 25 A It was so that they can put me to sleep for my

1 procedure.

2 **Q Sorry, one more time?**

3 A It was so that -- she explained that that IV was so that

4 they can give me the medicine to put me to sleep for my procedure.

11:30AM 5 **Q Put you to sleep?**

6 A Yes.

7 **Q Okay. Did Dr. Phillips or the nurse that was present,**

8 **did they ask you about any allergies to sedation?**

9 A Yes, the only thing they asked me was if I had any. And

11:30AM 10 I told them, no, not that I'm aware of, because I have never had a

11 procedure done like this.

12 **Q So did they ask you if you had any allergies at all or**

13 **any allergies to sedation?**

14 A Any allergies at all to medication, is exactly what she

11:31AM 15 asked.

16 **Q To any medications, okay.**

17 **But fair to say that it's kind of tough to answer that**

18 **question if you don't know what you are about to receive?**

19 A Exactly, yes, sir.

11:31AM 20 **Q I guess I sort of know this, but I need to ask it, did**

21 **they ask you if you had had any prior bad experience with the use**

22 **of propofol?**

23 A No.

24 **Q Neither one?**

11:31AM 25 A Neither one. Nothing was mentioned of propofol.

1 **Q So, obviously, we're going to be having -- we're going**
2 **to have a missing few hours here that we're going to talk about,**
3 **because you were sedated. So you don't remember parts of this**
4 **evening, right?**
11:32AM 5 A Correct. Yes, sir, that is correct.
6 **Q Okay. Now, did you remain sedated throughout your**
7 **entire surgery?**
8 A Yes, sir.
9 **Q You did not wake up at all at one point?**
11:32AM 10 A I woke up while they were trying to put my undergarment
11 on me. Half my body was hanging -- like my right arm was hanging
12 off of the edge of the bed, or the table, the surgery table. And
13 my other -- my, also, right leg was dangling as well. I woke up
14 screaming, "Help, it hurts."
11:32AM 15 And I heard Dr. Phillips tell her assistant, "Give her
16 more."
17 **Q "Give her more"?**
18 A Yes.
19 **Q She didn't say give her more, anything -- nothing**
11:32AM 20 **specific, but just give her more?**
21 A Exactly. Yes, sir. That is correct.
22 **Q If you can remember, which is very difficult, did you --**
23 **did you just go out at that point again?**
24 A I fell right back to sleep. Yes, sir.
11:33AM 25 **Q You say this was when they were trying to get your**

1 **undergarment on. What's an under -- what undergarment are you**
2 **speaking of?**
3 A It would be, it's called a faja in Spanish, so it's the
4 garment that compresses your body that you have to have after
11:33AM 5 liposuction.
6 **Q Okay. To the best of your knowledge, the procedure --**
7 **well, actually, do you know, I'll just ask you the question, do**
8 **you know if your procedure was over at that point or if you were**
9 **still in the middle of the procedure when you woke up?**
11:33AM 10 A I didn't know. I just remember when I looked, kind of
11 like I lifted my head a little bit, and I couldn't. I laid back,
12 I saw that my faja was on, like just wasn't zipped, like they were
13 trying to put it on me.
14 So that's why I assumed, like my body was placed -- the
11:34AM 15 way my body was placed when I woke up, I must have been in like
16 the middle of them doing that.
17 **Q And I'm not familiar with that thing you are talking**
18 **about. Do you know who to you spell that, that faja, for the**
19 **court reporter?**
11:34AM 20 A Yes, it's F-A-J-A.
21 **Q Thank you.**
22 A Sir?
23 **Q Yes.**
24 A May I say something?
11:34AM 25 Before the procedure, while I was laying down, she did

1 ask me if I wanted the fat transferred anywhere else.

2 **Q Okay.**

3 A And I said yeah. And I had asked her, "You can do

4 that?" She said, "Well, yeah, I mean, you are under already, like

11:34AM 5 where else would you like it, if you can put it anywhere else?"

6 She said, "Would you like it in your breasts?" I said,

7 "How much more?" She said, "No, you are already under. I can go

8 ahead and just do it."

9 **Q For no price?**

11:35AM 10 A Oh, my goodness -- I'm sorry?

11 **Q For no cost?**

12 A No cost.

13 **Q Thank you. I note that the witness wasn't just**

14 **narrating, that question was asked of her and I think she just**

11:35AM 15 **recalled it, so that question was asked of her, what Dr. Phillips**

16 **and her talked about before the procedure.**

17 A Yes.

18 **Q Thank you, Patient A.**

19 THE HEARING OFFICER: Ma'am, I'm going to ask you this

11:35AM 20 question. When they asked you, do you want the fat to go anywhere

21 else, what did you say?

22 THE WITNESS: I said, "You can do that?"

23 THE HEARING OFFICER: And what did you decide, did you

24 tell them at that point to do anything differently than you had

11:36AM 25 already discussed, or no?

1 THE WITNESS: When she said about the fat transfer to my
2 breasts, after I asked her if she can do that, she said "Yes,
3 you're under anyway." I said, "Well, yeah. Thank you." And she
4 said, "Okay, no worries."
11:36AM 5 THE HEARING OFFICER: So at that point, the plan for
6 your procedure changed at that point? They were going to do --
7 THE WITNESS: They added.
8 THE HEARING OFFICER: Yeah, okay.
9 THE WITNESS: She added, yes.
11:36AM 10 THE HEARING OFFICER: Okay. Thank you.
11 BY MR. WHITE:
12 Q I have a follow-up question to Mr. Woodman's great
13 question. Are you aware if that actually occurred?
14 A Yes. Yes, it did.
11:36AM **15 Q Okay. Do you know where you had other transfers? Was**
16 it breasts?
17 A Yes.
18 Q Okay. Anywhere else?
19 A Other than my buttocks, no.
11:36AM **20 Q Okay. Because I understand that sometimes they can do**
21 fillers and nose and things like that too.
22 A Yeah. No, that was the only thing.
23 Q Thank you.
24 A You're welcome.
11:37AM **25 Q All right. What is the next thing you remember? Did**

you just at some point just wake up? And I know it's a really dumb question because you are sitting here today, but at some point you woke up; is that the next thing you remember?

A Yes, after they put me back to sleep, when I was telling

11:37AM them "help me, it hurts," I remember the assistant helping me sit up a little bit. And they had a cup of warm tea with a straw, and they said please drink this. You need to drink this.

So I drank it. It was warm. And I remember I was very, very cold and shaking, like it was a very, very ugly, ugly, ugly

11:37AM feeling. I was so cold and I just didn't feel myself.

Again, I'm coming out of surgery, so I'm expecting to be in pain, but I just didn't expect it to be so intense.

So I drank the tea and it helped me a little bit with being so cold.

11:38AM After I drank about half of my tea she said, "No, you've got to finish it, okay? Try to finish it. This is going to help you." So I said okay.

And so I finished the tea. And then she comes. And right after they take the cup of the tea, the doctor brings me a

11:38AM cup of Coca-Cola. I mean, I'm sorry, a can of Coca-Cola.

So she asks me to drink this as well. And I'm thinking, well, this is really nice, you know, they are making sure I'm okay.

And I drank the Coca-Cola. She said this is going to

11:38AM help me. Again, I don't understand why. I couldn't really talk a

1 whole lot because I was still kind of in and out of it, but I
2 drank only a little bit of the Coca-Cola.
3 After that, they helped me get up. And I was hurting
4 quite a bit. I was in a lot of pain.
11:39AM 5 But I was still -- I can still feel, I was still
6 sedated, like I was still under medication.
7 So they walk me to the bathroom. When I get to the
8 entrance of the bathroom door -- I'm very dizzy, very, very
9 dizzy -- they let me pretty much go. I'm hanging on to the
11:39AM 10 bathroom door. I hang on to the sink.
11 When I tried to lift my gown at the time to go use the
12 rest room I almost fell back. I literally thought I was going to
13 pass out. The nurse then grabbed my hand. And had she not
14 grabbed my hand, I would have fell so hard, so hard, because --
11:39AM 15 with all my weight, just flying back.
16 Q Thank you. That's very descriptive, and it brings up
17 another question.
18 So they didn't even ask you if you have a tendency to
19 fall when you come out of sedation?
11:40AM 20 A No. No.
21 Q Okay. And when you referred to "she gave me a cup of
22 hot tea, she gave me a can of Coca-Cola," who are you referring
23 to?
24 A When I went right up, the assistant already had the tea.
11:40AM 25 So with one hand she had the tea, her other hand she was lifting

1 my back of me up, and so I was like partial -- I was laying down
2 but I was partially, kind of, like up. And she had the tea.
3 Dr. Phillips brought me the can of coke.
4 **Q Okay. And so you were kind of -- they were helping you,**
11:40AM 5 **or the assistant, the nurse assistant was helping you sort of sit**
6 **up on the table so you could --**
7 A Correct.
8 **Q -- drink?**
9 **How soon after this experience did you leave the office**
11:41AM 10 **of Vida Spa?**
11 A It was literally right after. After I went to the
12 bathroom, my best friend and my daughter were already in the
13 surgery room with me where they did the procedure. They already
14 had a wheelchair, so I sat down on it. I was already in my
11:41AM 15 undergarment and, I believe, a robe. And it was only Dr. Phillips
16 and her assistant in that room.
17 As we walked out the front of Vida Spa, everything was
18 closed. Everything was. There was nobody there but Dr. Phillips
19 and the assistant.
11:41AM 20 **Q I'm going to take you through that just quickly.**
21 **Did -- were the lights on in the rest of the office?**
22 A (Shaking head negatively).
23 **Q No?**
24 A No.
11:41AM 25 **Q It was dark?**

1 A Yes, sir. Correct.
2 **Q Did somebody have to unlock the front door before you**
3 **went into the parking lot?**
4 A Yes, sir. Correct. Yes, that was the assistant.
11:42AM 5 **Q So for all intents and purposes, that place was closed**
6 **and you were getting a surgery back there?**
7 A A 100 percent, yes.
8 **Q Did Dr. Phillips or the assistant who we've now**
9 **determined were the only ones left that work at Vida Spa, when you**
11:42AM 10 **left, did either one of them give you any instructions or anything**
11 **like that?**
12 A After I was wheeled out of the room I didn't see
13 Dr. Phillips at all. That was the last time I ever saw
14 Dr. Phillips.
11:43AM 15 The assistant gave my best friend the aftercare of what,
16 pretty much on the paperwork, of everything I needed to be eating,
17 down to, really, when I was supposed to walk, down to my
18 compression socks, told me -- this is what I remember, as I was
19 getting -- climbing -- and I went down an elevator.
11:43AM 20 So I exited out, we make a left. We went down the
21 elevator. My car was right in front of the elevator, parked.
22 My -- I have a Grand Jeep Cherokee, so he lifted the
23 back, and he had everything laid out for me.
24 As I was climbing in, I remember the assistant saying
11:43AM 25 your butt is going to be a little swollen, but it's going to get a

1 little bit bigger, and then you're going to see it drop, so don't
2 be concerned of that.
3 But that's all that was said. It was nothing of -- it
4 was more like a "here you go," and that was it.
11:43AM 5 **Q Thank you. Did you get any medicine or any painkillers**
6 **or anything like that prescribed to you?**
7 A So the day of my surgery, when I first got in, they gave
8 me all -- because I asked them why. I didn't want -- because I
9 knew it was going to be painful afterwards, I had asked if there's
11:44AM 10 anything that he can do -- which is my best friend -- like he can
11 go get, do I have prescriptions that need to be filled, so he can
12 get that while I'm going under, so that I have everything I need
13 when I get home.
14 She said, "Oh, no." They gave me a sealed bag. It
11:44AM 15 looked like a prescription pharmacy bag, and it had all my
16 prescriptions in there, is what she said. So she gave to it my
17 best friend and he held on to that.
18 **Q Do you know what they were?**
19 A No, I didn't. She had everything sealed. Everything
11:45AM 20 was stapled in the bag.
21 **Q Okay. Give me one moment here.**
22 A Okay.
23 **Q Patient A, I'm going to have you turn to page 265 of**
24 **Exhibit 22. 265.**
11:46AM 25 A Okay.

1 Q **Are you there?**
2 A I'm here.
3 Q **Okay. Thank you. You see what looks like a**
4 **prescription for Elavil. Did you -- it looks like it's written to**
11:47AM 5 **you. Did you use this?**
6 A Yes, sir. I used everything that was given to me by
7 them.
8 Q **So you got more than just the Elavil?**
9 A Yes. I got several bottles. I had, I think, a total of
11:47AM 10 maybe five bottles, maybe one or two more.
11 Q **Okay. If you can tell us, was the Elavil for -- to help**
12 **you sleep or to help with pain, do you know?**
13 A I don't know. Everything that was given to me, it made
14 me sick. Everything. All the pills, yeah.
11:47AM 15 Q **Did you -- I'll have you now turn to page 242.**
16 A Okay.
17 Q **Do you see there's a rectangle box there? It says**
18 **current medication?**
19 A Yes.
11:48AM 20 Q **Is that the -- is that what Dr. Phillips prescribed you?**
21 A Yes.
22 Q **So looks like we have ibuprofen, 800-milligram tablets,**
23 **moxifloxacin, clindamycin?**
24 A Yes.
11:48AM 25 Q **Okay. And I can't read that, I'm not sure what that**

1 last one is. Okay.
2 But four different medications, plus the Elavil. Okay.
3 A Yes.
4 Q Did any of these help you with your pain?
11:48AM 5 A No.
6 Q If you go back to 265, it definitely looks like
7 Dr. Phillips signed it. Did you watch her sign it?
8 A No.
9 Q Okay.
11:49AM 10 A Sir, for the Elavil, that was prescribed later.
11 Q Oh, it was, later?
12 A Yes, because I wasn't able to sleep for the first, I
13 believe, two days. I was in so much pain, even with ibuprofen.
14 So my main thing wasn't the pain, it was just I couldn't sleep.
11:49AM 15 Q Okay. So Elavil -- sorry.
16 A Uh-huh.
17 Q So Elavil was to help you sleep?
18 A Yes.
19 Q Okay. And it does look like a date of 5/22/2021 so it
11:49AM 20 would have been about two days after your surgery?
21 A Yes, sir.
22 Q Okay. I have no more questions for you. I do want to
23 show you some videos so you can identify Dr. Phillips, if you can
24 watch those; but at this point do you have anything that you would
11:49AM 25 like to add that we may have missed about your experience?

1 A Not that I can recall, no.
2 MR. WHITE: Okay. All right.
3 We're going to show -- everybody will be able to see it.
4 These haven't been marked -- or, they've been marked, excuse me,
11:50AM 5 but they are not -- they have been marked, haven't they? We will
6 probably ask -- actually, we'll use them right now for
7 demonstrative purposes, Mr. Woodman.
8 And we'll ask her to take a look at it, and maybe we can
9 talk a little bit more after that.
11:51AM 10 Actually, before you start it, I can ask her a question
11 real quick.
12 BY MR. WHITE:
13 Q I'm going to ask you a question before we start the
14 video, but we will watch it in a second.
11:51AM **15 Can you tell us who you see in this, at the beginning of**
16 this video?
17 A Yes, sir. That's Dr. Phillips with the White coat. And
18 that is Giselle with the beige, tan, brown shirt, and jeans.
19 MR. WHITE: Thank you.
11:51AM 20 Go ahead and start.
21 (The video was played.)
22 BY MR. WHITE:
23 Q Thank you, Patient A, for holding on for that video.
24 So you had said at the beginning, when it was -- at the
12:01PM **25 very beginning it was stopped, and you did identify Dr. Phillips**

1 **on the left, Giselle Platfoot on the right; correct?**
2 A Yes, sir. Yes, sir.
3 **Q How sure are you that that was Dr. Phillips?**
4 A A thousand percent.
12:01PM 5 **Q And how about Giselle Platfoot?**
6 A A thousand percent.
7 MR. WHITE: I would like to ask the record to reflect
8 that she has identified both Dr. Phillips and Giselle Platfoot.
9 THE HEARING OFFICER: And the record will so reflect.
12:01PM 10 BY MR. WHITE:
11 **Q Also I think we heard them mentioned that, the word**
12 **Vida Spa -- or "Vida Spa," I think is how Giselle said it. You**
13 **saw that whole video and you've been there.**
14 A Yes.
12:01PM 15 **Q Despite them just standing in kind of a corner doing**
16 **that video, were you able to recognize that as Vida Spa?**
17 A No.
18 **Q You weren't able to recognize it as Vida Spa?**
19 A No, where they were located, no. That was like if they
12:02PM 20 were in an office.
21 **Q So you didn't the see that picture or anything like that**
22 **on the wall?**
23 A No.
24 **Q Okay. Do they have more than one office, as far as you**
12:02PM 25 **know?**

1 A Yes.
2 **Q They are in the same building?**
3 A Yes. When you walk in, there's a seating area to the
4 left. The counter is right when you walk in.
12:02PM 5 When you walk towards the back, they have a break room
6 right -- right, the very first door on the right-hand side would
7 be the break room where the employees go eat or rest.
8 When you go further down, there's another, kind of like
9 a short hallway to the right, and there is three, if I'm not
12:02PM 10 mistaken, three rooms; two on the left, one on the right. And on
11 one of the rooms is where I used to get my drainage massages.
12 **Q And then there's another office, is that where you --**
13 **and the other office is where you had your surgery, upstairs?**
14 A Yes. And when you go further down -- because everything
12:03PM 15 is done upstairs. Everything -- there is no downstairs.
16 Everything is just an upstairs level.
17 When you go further down, straight ahead is Giselle's
18 office.
19 **Q So they were standing in a corner, you don't recognize**
12:03PM 20 **that corner, out of either -- from either of the two offices that**
21 **you saw?**
22 A Honestly, no.
23 MR. WHITE: Okay. Thank you. No, that's okay. I just
24 want you to be truthful. That's good. That's not a problem.
12:03PM 25 So I guess -- I don't think I have anything else for

1 you. This would be normally the time for -- I'll let Mr. Woodman
2 take care of that. But I have no more questions. I would pass
3 the witness at this point.
4 THE HEARING OFFICER: Very good.
12:04PM 5 And do you think you're going to need to possibly recall
6 her this afternoon? Or not.
7 MR. WHITE: I don't think so.
8 THE HEARING OFFICER: All right. Ma'am, we very much
9 appreciate your willingness to come and testify today.
12:04PM 10 It doesn't appear that we're going to need you any
11 further, so you are free to go.
12 But when you leave, it's possible you might run into
13 other people there in the building who might be testifying in this
14 case later on this afternoon, so I need to ask you not to discuss
12:04PM 15 your testimony with anybody. Okay?
16 THE WITNESS: Yes, sir.
17 THE HEARING OFFICER: Thank you very much ma'am.
18 MR. WHITE: Thank you very much, Patient A.
19 THE WITNESS: You're very welcome. Thank you.
12:04PM 20 THE HEARING OFFICER: So with that, anything you want to
21 address before we just give our reporter a lunch break?
22 MR. WHITE: No, but I would -- I actually would ask that
23 to be marked as -- what would that be, Exhibit 92?
24 MS. BYRD: I think we're at 93.
12:05PM 25 MR. WHITE: 93? I'm losing count.

91 would be the withdrawal. Yeah. So 92.

MS. BYRD: The video.

THE HEARING OFFICER: Right, I've got 91 -- so this would be -- the video is what you want marked as 92?

12:05PM MR. WHITE: Yes, please. And I'm going to move to admit it based on that she was able to recognize both, a thousand percent recognize both Dr. Phillips and Giselle Platfoot.

I realize that may have been filmed somewhere else, but they did mention Vida Spa in that, so I don't believe there's any

12:05PM mistaking what this was all about.

THE HEARING OFFICER: No. And for what it's worth, I lived in South America for a couple of years and I speak Spanish fluently, so there's a whole lot more I picked up than maybe most would pick up, but, yes, 92 will be admitted.

12:06PM (Exhibit 92 marked for identification and admitted into evidence.)

MR. WHITE: Thank you. That's all I have. We can take a break for lunch and we'll bring Kim in later and you can also do your Zoom when it happens, I guess.

12:06PM THE HEARING OFFICER: All right. So you're going to bring Ms. Friedman back, right?

MR. WHITE: Yes.

THE HEARING OFFICER: And how much time do you think you'll --

12:06PM MR. WHITE: I think it will only take about another

1 hour.
2 THE HEARING OFFICER: Because I've got that 1 o'clock, I
3 don't want people hurrying back here to wait for me, so why don't
4 we say 1:30. And that way people have time, and by 1:30 I should
12:06PM 5 be good to go.
6 MR. WHITE: I appreciate everybody's patience.
7 THE HEARING OFFICER: We can go off the record.
8 (A discussion was held off the record.)
9 THE HEARING OFFICER: Can you hear us, ma'am?
12:13PM 10 THE WITNESS: I can, yes, sir.
11 THE HEARING OFFICER: So, ma'am, we're back on the
12 record, very briefly. Thank you for coming back. Mr. White may
13 have a question or two more for you.
14 THE WITNESS: Of course.
12:13PM 15 MR. WHITE: Thank you, Patient A. I apologize for that
16 little mishap.
17 BY MR. WHITE:
18 Q I wanted to ask you, what are you experiencing now since
19 your surgery? Go ahead.
12:13PM 20 A I'm still in pain. I still get -- I still have quite a
21 bit of -- my stomach has lumps still, and they are very painful.
22 That's -- I'm only required -- they said 10 massages, for the
23 surgery and I should be perfect, they said.
24 I'm literally on probably 30 massages, and I'm still
12:14PM 25 going. I go once or twice a week, depending on how bad I am that

1 week. My massage therapist is the one that will tell me, "Okay,
2 so next week we'll see you two times a week." You know, "What we
3 did this week, I'll only need to see you one time next week," and
4 from there, she goes on like that.
12:14PM 5 **Q So you're still experiencing pain --**
6 A Oh --
7 **Q -- where they did the Liposuction 360?**
8 A Yes. And if -- yes. It's horrible, yes. Yes. I'll be
9 sitting down at work, and I'll get just, like cramp, and then a
12:14PM 10 sharp pain that shoots right up, like just straight up.
11 **Q Okay. And you said lumps, so -- and you also mentioned**
12 **10 massages. So was it your expectation that after this surgery**
13 **and the 10 massages, that everything would be smooth and not**
14 **lumpy?**
12:15PM 15 A Yes, that's exactly what they told me.
16 **Q And are those massages supposed to be the things that, I**
17 **guess, for the aftercare, smooth things out even more?**
18 A Yes. So it's called lym- -- I'm sorry -- the lymphatic
19 drainage massages. So before they can remove the drains they give
12:15PM 20 you, Vida Spa gives you, I think it's two or three massages that
21 are inclusive with what you pay, and they drain you out.
22 So they rub your stomach and the blood or the fluid that
23 they injected me with to sedate me, as well as what they did for
24 the lipo, drains out from inside, they said.
12:15PM 25 **Q Is anybody injecting more into you right now, or is it**

1 **just still coming out from the surgery?**
2 A No, it's done. It was the first five -- I was actually
3 ready by the fourth day for my drainage to come out, but Vida Spa
4 literally waited seven days, for God knows why.
12:16PM 5 **Q To take out the drainage?**
6 A Yeah, the massage therapist at Vida Spa told her, on the
7 third or fourth day, "Hey, she's not leaking anymore. She -- can
8 we take off the drains?"
9 And they came back and said, no, leave them in there
12:16PM 10 until her next appointment, which wasn't until the seventh day of
11 my post-op.
12 **Q So would you say that you are satisfied or dissatisfied**
13 **with your decision to go to Vida Spa, and then the overall**
14 **outcome?**
12:16PM 15 A 100 percent dissatisfied. I regret ever going there,
16 from beginning. I already -- and again, I can't say this enough,
17 that I wish I would have known what I know now, my feeling --
18 before all this came out, just with the procedure alone, the way
19 things were handled from beginning to end, besides -- of what they
12:17PM 20 did to me, or whatever they did to us, they are horrible. They're
21 horrible.
22 They don't give you the comfort or talk to you or
23 provide what you need to heal or prepare, they just give you a
24 piece of paper and they collect your money. That's all.
12:17PM 25 If you feel -- literally, I felt like, how -- that's how

1 I felt, right after that, because I had to call them and say,
2 "Hey, you know what, I not able to sleep, I'm in so much pain."
3 And it's normal -- and I know it's normal for you to
4 feel bad. I've seen people -- again, I know healing processes
12:17PM 5 vary for everybody, but I see people, and a lot of people, they're
6 putting makeup on, you know, they are walking around me.
7 I had the most horrific four or five days. I needed
8 help walking to the bathroom for three straight days, like I
9 couldn't walk on my own. I couldn't hold myself up, which they
12:18PM 10 were saying was not normal. They were saying by the next day I
11 should have been up, walking on my own.
12 Q Did you have any, aside from your massages that you got
13 with the price, did you have any follow-up visit with Dr. Phillips
14 after the surgery?
12:18PM 15 A Sir, the only day I ever spoke and saw Dr. Phillips was
16 literally the day of my surgery.
17 Q Are you still wearing the undergarments, or has that
18 passed by?
19 A Yes, I still have to wear it on. They said for the
12:18PM 20 first three months I have to wear it day, night, the only time I
21 remove it is to shower.
22 And after three months you have to wear it eight hours a
23 day, so I did try it -- I'm already going on three months on the
24 20th of this month. So I tried, two days ago, to -- like I went
12:19PM 25 to work with my faja, so that's about eight to ten hours with my

1 faja. And when I got home, I removed it. And I can't -- it's
2 painful.
3 So I feel like my faja helps with the pain, because when
4 I remove it, I feel -- it feels really bad, and my body hurts. My
12:19PM 5 body hurts without it.
6 **Q And you have to wear those for total of six months,**
7 **right, that faja?**
8 A Yes, sir. Yes, sir, that's correct.
9 **Q Who removed your drains, if you didn't see Dr. Phillips?**
12:19PM 10 A It was the nurse, the nurses there.
11 My massage therapist, the one who was doing the
12 massages, whichever one that was doing the massages. We had
13 different ones. It wasn't always the same one.
14 **Q You said it wasn't always the same one that was giving**
12:19PM 15 **the massage?**
16 A No, sir. They have different -- I'm not sure what the
17 nurses, or what, but yeah, there were different ones.
18 And one, the first time it was only one that did my
19 massage. The second time it was two people that did my massage.
12:20PM 20 **Q And then when they removed your -- the drains, do you**
21 **recall which nurse that was, who it was?**
22 A No, I don't. I've never seen her before.
23 **Q And actually, let's ask you this too.**
24 **Did you recall who the nurse was in the surgery room**
12:20PM 25 **that night?**

1 A No, she wasn't in the room with me at all after that.
2 **Q No, but do you recall the name of the nurse that was**
3 **present when you had your surgery?**
4 A Oh, no. But I remember her face. And she's short,
12:20PM 5 Hispanic woman.
6 **Q Okay.**
7 A Long hair.
8 **Q Okay. Do you have anything else you want to add about**
9 **your experience since the surgery?**
12:21PM 10 A Oh, I see -- I forgot to mention, I did see on the paper
11 of what they provided before -- for what my price was, the faja
12 was not included. I had to purchase the day of.
13 Also what kept this dragging on, was when I got there
14 they asked if I had brought my faja. And I told them, "Wait, they
12:21PM 15 said that was included, because I didn't know what size to get.
16 Otherwise, I would make sure I brought that to this, you know. I
17 would ask what size would I need, so Giselle told me that you guys
18 provide that."
19 And they said, "Oh, no, no, no, that's not true. You
12:21PM 20 guys have to provide it."
21 So then they sent my best friend and my daughter to go
22 gather one at the place I guess that they go to, because they
23 didn't have one available for me. So that was false. They did
24 not include my faja in the price. I had to buy that myself.
12:22PM 25 **Q I see what you're looking at. I want you to turn to**

1 **page 262, quickly, of Exhibit 22.**
2 A Yes, sir.
3 **Q It looks like it says "package includes."**
4 A Uh-huh.
12:22PM 5 **Q Does that say faja?**
6 A Yes.
7 **Q And you just told us you had to buy your own the day of?**
8 A Yes. I didn't -- they didn't let me know. Again, they
9 told me this was inclusive. Because, again, I didn't know what
12:22PM 10 size I was. Otherwise, I would have been asking like, hey, what
11 size am I supposed to get, and made sure I had that undergarment.
12 Because they said, without that, they couldn't do the surgery.
13 So my best friend had to fly on the other side of
14 town -- mind you, they closed at 6:00. So they were there
12:22PM 15 literally a little bit before 5:30.
16 So right away, they asked, "Well, did you bring your
17 compression garment, did you bring your faja?" And I was just
18 like, "No, you guys were supposed to provide that. That was
19 inclusive in the price." She said, "Oh, no. No, it's not."
12:23PM 20 So they sent him to where, I guess, they get their -- or
21 one of the ladies said where they get it from. And he raced over
22 there and he brought it back. Right when I was walking into the
23 room, they did bring it back.
24 **Q Okay. What is it after "faja," what does that say? Do**
12:23PM 25 **you know?**

1 A After faja?

2 **Q Right after "faja" where it says "package includes," do**
3 **you know what the next word is? Looks like it starts with a B?**

4 A I'm assuming that meant to say "board," but they didn't
12:23PM 5 provide that either.

6 I had to buy the board and the foams that go -- because
7 you have to wear a -- it's an abdomen board, and foams that go
8 around your whole torso, to keep everything, like, pretty
9 compressed.

12:23PM 10 **Q For how long?**

11 A So I was wearing that -- I'm sorry?

12 **Q I'm sorry to interrupt you, but for how long do you wear**
13 **that board?**

14 A I wore that for the first two months.

12:24PM 15 **Q Okay.**

16 A So that was also not included. I don't know why they
17 have that. They did not give that to me either.

18 **Q Just out of curiosity, do you know where your friend**
19 **went to pick up a faja and the board for this?**

12:24PM 20 A Yeah, I still -- no, the board I already had purchased
21 because in your list of items, the board and the abdomen -- the
22 abdomen -- I'm sorry, the abdomen board and the foam boards, we --
23 it said that we had to purchase that in advance. So I made sure I
24 had that already before my procedure. I had all that at my home.

12:24PM 25 But the faja was supposed to be given to me there and I

still -- yeah, I know exactly where, because I still go there and still get fajas, because you just don't just stay in one faja, there's -- you literally -- I went from an extra large down to a small within weeks.

12:25PM **Q Okay. And they --**

A That's -- uh-huh.

Q And they all fit properly, from the beginning until going down to the small?

A Yes. Yes.

12:25PM **Q So you were able to purchase the right one?**

A Yes. Yes.

MR. WHITE: Okay. I think I'm -- I think I have all my questions answered. Thank you very much. And thank you for coming back. I apologize.

12:25PM THE WITNESS: Of course. Anything else?

No, no worries. If you guys need anything else, please let me know, I'll be glad to come back.

THE HEARING OFFICER: Thank you, ma'am.

THE WITNESS: You're very welcome. Thank you.

12:25PM THE HEARING OFFICER: We'll go off the record again.

(A discussion was held off the record.)

(The lunch recess was taken.)

THE HEARING OFFICER: We're back on the record in the matter of Investigation of Maryanne DeForest Phillips, M.D.

01:35PM And it is now our after-lunch session. It's 1:35, as we

1 pick this back up.
2 And Mr. White finished up with his last -- his second
3 witness, who we are referring to as Patient A.
4 And, Mr. White, it's my understanding there's going to
01:35PM 5 be a housekeeping issue here, but did you want to go back to
6 Ms. Friedman or did you want to call a separate witness first?
7 MR. WHITE: We'll go back to Ms. Friedman, yes.
8 THE HEARING OFFICER: And then do you want to address
9 some housekeeping now? Or do we need to address --
01:36PM 10 MR. WHITE: You know what, actually, it is probably
11 maybe a good idea that we do Meg right now first. That way when
12 we get the videos maybe admitted, possibly, and your ruling
13 and we'll do that.
14 THE HEARING OFFICER: So, Ms. Friedman, can you hear us?
01:36PM 15 MS. FRIEDMAN: Yes, I can.
16 THE HEARING OFFICER: Great. So I think we're going to
17 have a real quick witness here in Ms. Byrd. Do you mind just
18 standing by there?
19 I'm not concerned about you hearing Ms. Byrd's testimony
01:36PM 20 based on what I know it's going to be. I mean, I don't know
21 exactly what she's going to say, but I know generally what. She's
22 going to put down some foundation for some videos.
23 Do you mind just waiting for us there? As soon as we
24 finish with her, we'll take off with you.
01:37PM 25 MS. FRIEDMAN: You bet.

1 THE HEARING OFFICER: All right. Do you want to address
2 anything on the record, Mr. White, before calling Ms. Byrd?
3 MR. WHITE: Yeah, I just want to address that these --
4 I'm going to call Ms. Byrd, really, to just lay a foundation for
01:37PM 5 more videos that were downloaded from Facebook. We'll get more
6 into details as she testifies.
7 But that is all she's here for. She's only here to
8 authenticate and lay a foundation for those videos so we can
9 possibly get them admitted, depending on what you rule.
01:37PM 10 There's nothing substantive about the case that she's
11 going to testify to, nor is there anything that has to do with the
12 allegations in the summary suspension. It's just merely a way to
13 try and lay a foundation for the videos.
14 THE HEARING OFFICER: All right. So, Ms. Byrd, will you
01:37PM 15 please raise your right hand and our reporter will swear you in.
16
17 MARGARET FRANCIS BYRD
18 called as a witness, having been duly sworn,
19 testified as follows:
01:38PM 20
21 THE HEARING OFFICER: All right. Mr. White when you're
22 ready.
23 MR. WHITE: Thank you.
24
25 ///

1 DIRECT EXAMINATION

2 BY MR. WHITE:

3 **Q Ms. Byrd, would you please spell your full name, or**
4 **excuse me, say your full name and spell it, please, for the court**
01:38PM 5 **reporter.**

6 A Yes, my name is Margaret Francis Byrd. Last name is
7 spelled B-Y-R-D.

8 **Q And let's just get a little background on you. Do you**
9 **work for the Nevada State Board of Medical Examiners?**

01:38PM 10 A I do.

11 **Q And what is your capacity here at the Board?**

12 A I'm a legal assistant.

13 **Q All right. And just for disclosure purposes, are you**
14 **my -- are you my legal assistant?**

01:38PM 15 A I'm assigned to most of your cases.

16 **Q And also for another attorney in our office; correct?**

17 A Correct.

18 **Q And so we're here to talk about some videos that we**
19 **have, they are not even marked yet, but I would like to just ask**
01:39PM 20 **you some questions about those videos. Okay?**

21 A Okay.

22 MR. WHITE: And maybe we should probably -- may I have
23 permission to publish them so we can at least just see what we're
24 looking at --

01:39PM 25 THE HEARING OFFICER: I have no problem with that.

1 MR. WHITE: -- before they are admitted?
2 So if you would.
3 THE WITNESS: Uh-huh.
4 Do you want me to bring up those videos?
01:39PM 5 MR. WHITE: Yes.
6 I'm going to state that I don't have the list in front
7 of me.
8 We saw one already and it's been admitted.
9 THE WITNESS: The liposuction and the second --
01:39PM 10 BY MR. WHITE:
11 Q So go ahead, just put it up. Go ahead and put it up.
12 A This one, okay.
13 Q You may not even need to play it, depending on what we
14 can see.
15 (Video still picture shown.)
16 BY MR. WHITE:
17 Q Is it possible to see that, everyone? At least I would
18 like to point out that there's a date here.
19 Ms. Byrd, can you see a date here that I'm pointing with
01:40PM **20 my pen?**
21 A I can. January 6th.
22 Q So where did you -- did you download this video?
23 A I did.
24 Q And where did you -- where did you download this from,
01:40PM **25 from what social media platform?**

A Facebook.

Q And how many Facebook accounts did you visit to download this and other videos we'll see in a moment?

A Two.

01:41PM **Q Okay. What are their names?**

A The first one was Vida Spa Platfoot.

The second was Vida Spa.

Q Okay. And going back to this date -- so on Facebook, just to kind of point out, if we don't see a year, what does that

01:41PM **generally mean?**

A It generally means that it took place in the same year that we're in currently.

Q Okay. So, for instance, if it was January 6, 2020, we would see a 2020 after that?

01:41PM A Correct.

Q Okay. All right. And did you make any friend requests to obtain access to either of these accounts?

A No.

Q Okay. So why did you not make a friend request?

01:42PM A These accounts were open to all Facebook users. They are public accounts, used typically for advertising and to reach the public -- to reach the general public or the members of Facebook.

Q And so, in other words, can anyone with a Facebook

01:42PM **account -- and millions of people have -- can they view these**

videos?

A Yes.

Q And that would be without having to make a friend request, you just go on, look for it, search for it and watch

01:42PM **them?**

A Correct. There are no barriers to seeing the videos.

MR. WHITE: So at this point, would you, Mr. Woodman would you like to see a little of it, or are you satisfied that we can start a little of it, we don't have to watch the whole thing?

01:43PM I can also have Kim watch them too.

THE HEARING OFFICER: Well, if you just make an offer of judgment -- not an offer of judgment, an offer of proof as to what's in them, I'll admit them, and them you can play them when you want them.

01:43PM MR. WHITE: Okay.

BY MR. WHITE:

Q Well, this one, if I remember correctly, is where the woman on the left, who I'm actually not familiar -- I'm not sure who that is -- is sort of interviewing Dr. Phillips, who is

01:43PM **certainly the one on the right, and they're also talking about what prices are and everything. It's kind of a little bit like the last one.**

And, Meg, you're still on here. Do you recall anything else about this video that stands out from the other one?

01:43PM A Specifically, the lady on the left discusses the

1 sedation and the possibilities of sedation.

2 **Q Okay. So, yeah, so there's some sedation talked about.**

3 **And obviously that's an issue.**

4 THE HEARING OFFICER: That's clearly going to be

01:44PM 5 something that will be interesting.

6 MR. WHITE: All right. So at this point I would move to

7 admit that video, and I guess we'll have it as 94, if it's

8 admitted.

9 THE HEARING OFFICER: And I'm going to admit it, so that

01:44PM 10 will be 94 -- or I was going to say 93.

11 MR. WHITE: So 91 is the withdrawal.

12 You're right.

13 THE HEARING OFFICER: I think where I keep throwing you

14 off is we went back and called that one email 54A.

01:44PM 15 MR. WHITE: 54A, which I'm going to get admitted in,

16 hopefully. Yeah, okay.

17 (Exhibit 93 marked for identification

18 and admitted into evidence.)

19 BY MR. WHITE:

01:45PM 20 **Q Okay. So let's go to a different one.**

21 A This one?

22 **Q Yes. Just go ahead and put that one up. I just want to**

23 **make sure.**

24 (The video was played.)

01:45PM 25 MR. WHITE: Stop.

BY MR. WHITE:

Q So this is a different video. This is going to show the offer of proof I'll show for this one.

First of all, I would like to make a little disclaimer here, if you don't want to watch it, it is a little bit -- it shows a surgery. I mean, it shows somebody going in, which you'll notice is going to be Dr. Phillips. She's doing a chin lipo.

So you can actually see the cannula, which I think is a little smaller cannula than you would use for the abdomen. I'm not sure, I'm not positive about that, but it goes into the chin underneath, so you'll see that.

But you will see Dr. Phillips. It's being narrated by somebody, I don't know who that is, but it's obviously Dr. Phillips doing a chin liposuction.

THE HEARING OFFICER: Very good.

MR. WHITE: Would you like to view a little of it?

THE HEARING OFFICER: So for right now, it depends on what you want to do with it. Based on your offer of proof, and what you are telling me, that it's showing Dr. Phillips doing the procedure, I'm going to admit it based on that, and then you can either show it now or show it later, depending on how you want to present your case.

BY MR. WHITE:

Q Okay. Meg, does this show that it's also from Facebook, or is this a different one?

1 A No, this one does not have a Facebook notation but it
2 was downloaded from Facebook. I downloaded it from Facebook.
3 MR. WHITE: Okay. Well, with my offer of proof I'll
4 submit that you will see Dr. Phillips' face in that, that it is
01:47PM 5 her doing this procedure.
6 So at this point I would move to admit this also.
7 THE HEARING OFFICER: Admitted.
8 (Exhibit 94 marked for identification
9 and admitted into evidence.)
01:47PM 10 MR. WHITE: 94?
11 THE HEARING OFFICER: Does that sound right? We've got
12 to check with the boss.
13 MR. WHITE: So this one -- go ahead -- there you go.
14 (The video was played.)
01:48PM 15 MR. WHITE: This one also you'll see Dr. Phillips, looks
16 like. I've seen this one a few times. This one is -- she is sort
17 of cleaning up blood from the incisions after doing a chin
18 liposuction.
19 I think it's -- I don't know if it's the same patient,
01:48PM 20 I'm not aware of that, but you will see that, and then you'll hear
21 Giselle Platfoot, she does narrate this one.
22 And she's narrating this and saying how great this woman
23 looks, the definition in her chin now.
24 And Dr. Phillips is clearly shown in here. And she has
01:48PM 25 some gauze in her gloved hand and she is wiping blood that keeps

sort of seeping out a little bit from the chin.

And it looks like, I think, if I remember correctly, it's basically two little holes right here below the chin.

So that's the offer of proof for that.

01:49PM THE HEARING OFFICER: And, again, since it's showing Dr. Phillips performing a procedure, I'm going to admit it.

(Exhibit 95 marked for identification and admitted into evidence.)

BY MR. WHITE:

01:49PM **Q And just to make sure it's all clean and tidy, did you also download this one, Meg, from Facebook?**

A I did download it from Facebook, yes, on the public pages.

MR. WHITE: On the public pages.

01:49PM So that's all we have. We have the four videos. Okay. And I would be ready now to speak with Kim.

THE HEARING OFFICER: All right. Thank you, Ms. Byrd.

Then go ahead, Mr. White.

Ma'am, can you still hear us down there?

01:50PM MS. FRIEDMAN: Yes, sir.

THE HEARING OFFICER: And we can adjust the volume up here a little if we need to, Ms. Friedman, but go ahead and speak up nice and loud so that our reporter can hear you.

THE WITNESS: Okay.

01:50PM THE HEARING OFFICER: Thank you.

Go ahead, Mr. White.

KIMBERLY FRIEDMAN

recalled as a witness, having been previously duly sworn, testified as follows:

DIRECT EXAMINATION, RESUMED

BY MR. WHITE:

01:50PM **Q Thank you. The first thing, I'm going to do some of -- I don't know if you have a copy of it down there.**

Do you have a copy of the email from McKesson that was sent to you, sitting in front of you, that we spoke to you about before?

01:50PM A I do not have it sitting in front of me.

Q Okay. All right. Maybe we should -- we'll get you a copy. I'll move on and we'll get you a copy and I'll come back to that.

A Okay.

01:50PM **Q One moment.**

Okay. Ms. Friedman, sorry about that. We'll get you a copy.

So I think you mentioned before, and I just want to ask you again since we're kind of back from a break, did you inspect

01:51PM **Vida Spa?**

A Yes.

Q Okay. How many times?

A Full inspection, twice.

Q And what dates, if you can remember, were those

01:51PM **inspections?**

A October 27th, 2020, and June 23rd, 2021.

Q Okay. I want you to turn to Exhibit 51.

A Okay.

Q So when you do an inspection, kind of take us through,

01:52PM **do you do them kind of all the same?**

A Essentially, it depends on -- typically depends on who is leading the investigation, whether it's the Medical Board, the Pharmacy Board.

In this case it was the Bureau of Health Care Quality

01:53PM clients.

So if I go with the Pharmacy Board, we tend to do a visual inspection of the entire facility, focusing on the medications and controlled substances.

Because of the situation with the Health Care Quality

01:53PM and Compliance, my main concern is what was transpiring in the procedure room.

Q And are you referring to -- which inspection are you referring to, the one in 2020 or 2021?

A 2021.

01:53PM **Q Okay. So the one in June. Okay. Great.**

1 **So because it was the Board of Health Care Compliance,**
2 **did you -- you stated that you were looking more at what**
3 **procedures were being done.**
4 **Is that because they have a duty to discipline or**
01:53PM 5 **monitor what's going on in facilities?**
6 A There was a concern that there was sedation being
7 utilized while liposuctions were being performed in the facility.
8 It was not licensed for conscious or unconscious sedation.
9 **Q Is it your understanding, as you sit here, that they**
01:54PM 10 **were also not licensed to perform any kind of surgeries? They are**
11 **not licensed as a surgery center?**
12 A They are licensed as a cosmetology establishment. That
13 was all.
14 **Q Okay. So about how long did your inspection take that**
01:54PM 15 **day on June 23rd?**
16 A We were on site at that facility for approximately six
17 to six and a half hours.
18 **Q And did you meet with somebody from the Board of Health**
19 **Care Compliance ahead of time, or did you meet at the location?**
01:55PM 20 A I met the two inspectors at their office on Maryland
21 Parkway prior to going on site at Vida Spa.
22 **Q Okay. And what did you see upon arriving?**
23 A Upon arriving, I asked to speak with Giselle Platfoot or
24 an APRN or RN, whoever was in charge at that time.
01:55PM 25 Ms. Platfoot was not at the facility, so they brought a

nurse who presented herself as Kristin Molina.

I asked Ms. Molina to show me the procedure room. Initially, Ms. Molina stated that the procedure room was under construction.

01:55PM I asked Molina to verify that no procedures were being performed, liposuction procedures were being performed at the facility. She said no.

I inquired again, a little more directly, because I did know that there were procedures being performed.

01:56PM At that time she stated to me, "Oh, I misunderstood your question," and took us to the back of the facility where they had now moved the procedure room.

Upon walking into the procedure room we noticed a patient in a gown, medical gown and blankets, sitting on a couch

01:56PM in a room that appeared to be a quasi-storage room.

To the left there was a bathroom, and then a small entrance into another room, which was set up for a procedure.

Q And you did just say that you saw somebody waiting for surgery?

01:56PM A That's correct.

Q And so how do you know they were waiting for surgery? Had you seen somebody before, in your nine years as an investigator for the Board, have you seen somebody before that's been prepped for surgery?

01:57PM A I'm also a surgical assistant so I've seen patients

1 prepped for surgical procedures. And then I verified with the
2 nurse, Ms. Molina, and asked her, inquired who the patient was
3 sitting on the couch.
4 When we walked in, on a table there was a patient chart
01:57PM 5 opened up, and I asked if that was the patient. And she
6 confirmed, the patient name on the chart was the patient sitting
7 on the couch.
8 Q Okay. Let's go to Exhibit 51, please. Ask you to take
9 a look at that.
01:57PM 10 A Okay.
11 Q So these are already admitted. And as you stated
12 before, when you authenticated these, these are pictures you took
13 on June 23rd, 2021; is that correct?
14 A Correct.
01:58PM **15 Q So what do we see? If you turn to the very first page**
16 of Exhibit 51, which is page 1102, what do you see there, what are
17 we seeing?
18 A That is a tall Mayo stand. A Mayo stand is typical,
19 what you'll find in a doctor's office, where they will place
01:58PM 20 utensils, equipment, and so forth. It's a tall Mayo stand that is
21 prepped with tubing and various cannulas, and it looks like a few
22 clamps as well.
23 Q Thank you. And would you turn to the next page, which
24 is 1103?
01:58PM 25 A Uh-huh. It's a photo of a lidocaine vial.

Q And this was -- was this near -- what room was this in?

A This is -- all this is in the same surgical procedure room.

Q Okay. Next one, 1104, what are we looking at there?

01:59PM A These were also found in the procedure room. These are copies of prescriptions, with Dr. Phillips' information on it.

Q Can we tell which pharmacy these are, too? I'm having trouble.

A Well, they are all blank on Exhibit 1105.

01:59PM **Q Thank you. I see.**

A It shows the Bio Nutraceutical Health Solutions.

Q And below that, what does it say?

A Maryanne Phillips, M.D., Medical Director, with an address at 2121 East Flamingo Road, Suite 112, Las Vegas, Nevada,

02:00PM 89191.

Q Thank you. Turn to page 1106.

A Okay.

Q Without reading the patient's name, because we do have a picture of a patient record there, what -- yeah, what is this? Is

02:00PM **this what I just stated it was?**

A This was the chart that was located directly to the left side, on a desk, upon entering the procedure room, where the nurse, Nurse Molina verified that patient EG was the same patient that was sitting on the couch, waiting for the procedure.

02:01PM **Q Okay. This was the person sitting on the couch that**

1 **you -- that Ms. Molina actually told you that?**
2 A Correct.
3 **Q I'm going to ask you a question. So at the top there it**
4 **has a date, is that the same date that you were doing the**
02:01PM 5 **inspection?**
6 A Correct, 6/23/21.
7 **Q What's the time right next to that?**
8 A The time stamp on it is 9:15.
9 **Q Okay.**
02:01PM 10 THE HEARING OFFICER: While you're taking a second
11 there, I'm going take you an extra second.
12 THE REPORTER: Oh, thank you.
13 THE HEARING OFFICER: Go ahead when you're ready,
14 Mr. White.
15 BY MR. WHITE:
16 **Q Thank you, Ms. Friedman. And turn to page 1104.**
17 **If you can recall, where were you located and what is**
18 **that?**
19 A These were also located in the procedure room and it's
02:02PM 20 heparin injections.
21 **Q Okay. Turning to page 1108.**
22 **What is that, and was it located in that room also?**
23 A Yes, there was, along the east wall, there's a cabinet,
24 and in the cabinets were located additional medications,
02:02PM 25 epinephrine, as you see here, and the inside vial there was a

1 heparin bottle.

2 **Q And it does appear -- if you can read to me, what is the**

3 **name of the person who wrote this prescription?**

4 A The prescribing prescription is Dr. Maryanne Phillips.

02:03PM 5 **Q Okay. Turning to page 1109. I'll ask you, too, was**

6 **this also located in the operating room, the surgery room?**

7 A That's correct. Towards the back of the table, the head

8 of the procedure table, there was an additional Mayo stand where

9 we located the propofol. This one appears to have propofol

02:03PM 10 inside.

11 **Q Okay. So this was one of the full bottles that you**

12 **discovered, of propofol?**

13 A Yes.

14 **Q Turn to page 1110. What do you have here?**

02:04PM 15 A This is a patient-specific vial with clindamycin, which

16 is essentially an antibiotic. That was located inside the

17 procedure room, inside the cabinet.

18 **Q Okay. If you look to the right side of that picture, of**

19 **the bottle, the right side of the bottle, is there a prescriber**

02:04PM 20 **there too?**

21 A Phillips.

22 **Q Okay. I'm going to skip the next one. Let me see here.**

23 **Well, actually I won't.**

24 **1111, what do we have here in this picture?**

02:05PM 25 A The two vials that were located in the same procedure

1 room, they appear to have been patient specific with the names
2 ripped off, and the labels.
3 And, again, they are forms of antibiotics. And on one
4 of them I can still see prescriber was Phillips.
02:05PM 5 **Q And on page 1112, what is that?**
6 A That's a defibrillator located in the procedure room.
7 **Q I'll ask you about 1113. Is that a --**
8 A 1113?
9 **Q Yeah. Is that the same picture as -- let's see. Is**
02:06PM 10 **that the same as 1109, just pulled back a little bit?**
11 A There were two vials of propofol on that same Mayo
12 stand. One was full, one was empty.
13 **Q Okay. Was one empty because it was already in --**
14 **somewhere else, ready to go for surgery, if you know?**
02:06PM 15 A Yes. In the photos there's a pre-drawn syringe full of
16 propofol.
17 **Q Say that one more time.**
18 A A pre-drawn syringe full of propofol.
19 **Q Kim, if you know -- Ms. Friedman, excuse me -- if you**
02:07PM 20 **know, why would Vida Spa have patient specific medications all**
21 **ready to go if the patients are not present, if that patient is**
22 **not present, if you know?**
23 A Are you referring to the antibiotics? Or the --
24 **Q Yeah, some of the ones we saw in the previous pictures,**
02:07PM 25 **like on 1110, there's some antibiotic there with a name on there.**

1 A Correct. That is the same patient that we ran into
2 previously with the Pharmacy Board, where they would write a
3 prescription for patients, patients would bring in the
4 prescriptions, but they would keep the remaining prescriptions.
02:07PM 5 **Q Who would keep them?**
6 A And essentially -- Vida Spa. And essentially they would
7 use it to dispense to other patients that would come in.
8 **Q Okay.**
9 THE HEARING OFFICER: I'm going to interrupt you for a
02:08PM 10 minute, Ms. Friedman.
11 Can you clarify for me what evidence you have that
12 that's what they were doing, that they would actually take
13 prescriptions from one patient and then give those to another?
14 How do you know that to be the case?
02:08PM 15 THE WITNESS: The only way that I was able to verify
16 some of that was in prior investigation with other procedures,
17 where medications prescribed for specific amounts was on this
18 prescription. The patient record identified a certain amount
19 administered to that patient, and then there was a remainder of
02:08PM 20 that prescription left in the facility.
21 In other instances we had patients that were prescribed
22 a certain amount of medication -- or excuse me, they were not
23 prescribed medication, but their records reflected administration,
24 the administration of medication, which was similar to what was
02:09PM 25 just left behind from other patients.

1 I was unable to get any verbalization or validation from
2 anybody that that's what was transpiring. We can only go based on
3 what the evidence that we have, between the records and medication
4 vial.
02:09PM 5 THE HEARING OFFICER: Thank you very much. You've
6 answered my question.
7 BY MR. WHITE:
8 **Q And just to kind of follow up, Ms. Friedman, as you**
9 **stated before in your testimony, were you investigating more than**
02:09PM 10 **one provider, and was this sort of early in that investigation, of**
11 **all these providers?**
12 A That's correct.
13 **Q So, fair to say, you were still gathering a lot of**
14 **evidence that you didn't know how it was going to fit together**
02:09PM 15 **right away at that point?**
16 A That's correct.
17 **Q I think we left off, 1114. Please turn to that page.**
18 A This is medication found on that same Mayo stand located
19 in the back of the procedure room. This is lidocaine and propofol
02:10PM 20 injectable.
21 **Q So when you were talking about there was a drawn syringe**
22 **of propofol with an empty bottle, is that what we're looking at in**
23 **this picture?**
24 A Yes.
02:10PM 25 **Q Please turn to page 1116 -- oh, sorry. Did I skip**

1 something? I think I did.
2 Okay. You can see part of the syringe is in 1114,
3 sorry, to clarify.
4 1115, is that just a wider angle of what we've been
02:10PM 5 talking about and what we've seen?
6 A That's correct.
7 Q Okay. And it shows the syringes pretty clearly in that
8 picture; correct?
9 A Yes, there's three syringes.
02:11PM 10 Q Would you turn to page 1116, please.
11 A Okay.
12 That's the procedure table located in the center of the
13 room.
14 Q And what do we have on -- thank you. Yeah, it gives us
02:11PM 15 a good picture of that. Thank you.
16 And what is over to the left in the picture?
17 A To the left, I -- I don't recall what that machine was,
18 if that was part of the liposuction. It's not a centrifuge, but I
19 don't recall what that machine was.
02:11PM 20 Q Okay. And over to the right?
21 A Over to the right is the Mayo stand that contained the
22 pre-drawn syringes, the lidocaine, and the propofol.
23 Q Okay. Thank you. Where in this picture -- the 1116
24 kind of gives us a good idea what the room looks like. If you
02:12PM 25 could, did you find the sedation logs in this room also?

1 A Yes, I did.
2 **Q Can you point out -- I know that maybe it isn't in the**
3 **picture, but maybe you could point out to where it was in regards**
4 **to this picture.**
02:12PM 5 A Yes. So if you're looking at Exhibit 1116, at the
6 patient bed, to the right was the table where the patient chart
7 was. To the left was the countertop where the sedation log was.
8 **Q Okay. Thank you. So you were there about six, six and**
9 **a half hours. Was -- did you ever see Dr. Phillips at that**
02:13PM 10 **inspection that day, on June 23rd?**
11 A No. They informed us upon arrival at 10:00 a.m. that
12 Dr. Phillips was on her way to perform a procedure. Ms. Molina
13 informed us of that. Staff informed us of that.
14 When Giselle Platfoot finally arrived, Giselle stated
02:13PM 15 that Dr. Phillips was on her way.
16 She left the room, returned shortly thereafter. And
17 because Dr. Phillips was informed that we were from -- the
18 Compliance Medical Board was there, that she was not going to
19 arrive.
02:13PM 20 **Q And did she?**
21 A She did not.
22 **Q What happened to the patient, EG, that was there?**
23 A She was sent home.
24 **Q Who sent her home?**
02:14PM 25 A Giselle.

1 **Q So during that whole visit, who did you see from**
2 **Vida Spa, and out of those people, who did you speak with?**
3 A Mostly Giselle. Ms. Molina was interviewed by -- a
4 little bit by myself and Health Care Quality Compliance,
02:14PM 5 essentially, what was transpiring, what was transpiring with the
6 procedures, what she does with the procedures.
7 And then the rest of the visit was reviewing some of the
8 patient charts from the sedation log.
9 **Q Okay. And this is also where you requested a copy of**
02:15PM 10 **the sedation log and some records?**
11 A That is correct.
12 **Q And some records -- and brought them back with you to**
13 **the office?**
14 A Correct.
02:15PM 15 **Q Did you speak with any other people, like staff or**
16 **anything like that?**
17 A No, not much at that time, no.
18 **Q What time of day did you go?**
19 A 10:00 a.m.
02:16PM 20 **Q Now your allegation letter went out in March sometime;**
21 **is that correct?**
22 A Correct. If I remember, correct.
23 **Q Yeah, I think. Okay.**
24 **It's Exhibit 4, and went out on March 19th, 2021?**
02:16PM 25 A That's correct.

1 Q Okay. And at that point you had made the allegations.
2 When did you send a request for records? That would have been
3 your second request; is that correct? Because I think you stated
4 before that you didn't ask for records immediately in the
02:16PM 5 allegation letter.
6 A Correct. The request for records were sent directly to
7 Vida Spa.
8 Q Okay. And that would have been the second request?
9 A Not to -- not the second request, it would have been in
02:17PM 10 the future.
11 I sent the records for the sedation chart directly to
12 Vida Spa on -- actually hand-delivered the subpoena on June 25th,
13 2021.
14 Q Okay. But in the -- yeah, and we'll get into that for
02:17PM 15 sure.
16 But in 5, on Exhibit 5, there's a second request for
17 record -- oh, no, is the second request for response, is that what
18 you were asking for?
19 A Correct.
02:17PM 20 Q Okay. At this point you still had not asked for
21 records; is that right?
22 A That's correct.
23 Q Okay. All right. But you did receive records, and we
24 have a lot of records we've had admitted now, for all those
02:18PM 25 patients we talked about, from the sedation log, and that was due

1 **to a subpoena that you hand-delivered?**
2 A To Vida Spa, correct.
3 **Q Now, did you receive, for any of those patients, which**
4 **number about 59, did you receive a sedation log for any of those**
02:18PM 5 **people?**
6 A No, I did not.
7 **Q Okay. Was there any discussion, when you -- when you**
8 **discovered the sedation log, if you did -- did you discover it**
9 **first?**
02:18PM 10 A The sedation log was actually discovered by one of the
11 inspectors at Health Care Quality Compliance, who noticed it. And
12 then I went over and took a look at the sedation log.
13 **Q Okay. And did you -- was anybody there that was -- that**
14 **you could talk to about the sedation log, to ask them questions?**
02:18PM 15 A Yes, Kristin Molina, the RN.
16 **Q What did you -- did you ask her any questions about**
17 **that?**
18 A Yes, I asked her why there was a sedation log of
19 propofol on the opposite end of the room. And Ms. Molina stated
02:19PM 20 that that's where they kept the log. That's where they kept the
21 information of all propofol that was administered to the patients.
22 **Q And did you ask her why it was across the room and why**
23 **it wasn't next to any other patient charts?**
24 A Ms. Molina informed us that she was required to keep the
02:19PM 25 log, that both Giselle and Dr. Maryanne Phillips had them keep a

1 separate log of the sedation.
2 **Q Did she give a reason for that?**
3 A She did not.
4 **Q I'm going to go back to Patient EG just a little bit.**
02:20PM 5 **So you had seen Patient EG. We just saw the photo you**
6 **took of the records, right, that she was supposed to be there at**
7 **9:15, right?**
8 A Correct.
9 **Q Okay. I want you to turn to what's been admitted as**
02:21PM 10 **Exhibit 37.**
11 A Okay.
12 **Q Now you had stated before that Ms. Platfoot sent EG**
13 **home, right?**
14 A That's correct.
02:21PM 15 **Q Okay. Now, taking a look at Exhibit 37, page 736, the**
16 **very first page of that exhibit, who does this appear to be**
17 **records for?**
18 A The same patient, EG.
19 **Q What date?**
02:21PM 20 A 6/23/2021.
21 **Q And do you see a time there?**
22 A Yes. 1815.
23 **Q So that would convert to what, 6:15?**
24 A 6:15.
02:22PM 25 **Q And if you just kind of page through it, page by page,**

1 it appears that -- does it appear that that surgery was done that
2 night?
3 A It was done that night.
4 Q And specifically, if you go to page 740 of the medical
02:22PM 5 records, I would like you to go down to where it says procedure.
6 What did EG have done?
7 A Liposuction 360 with fat transfer. Or, I'm sorry, they
8 put down the amount of fat that was removed.
9 Q Yeah, I don't see transfer. It's just Lipo 360?
02:23PM 10 A Yes. Lipo 360.
11 Q Okay. Give me one second. I'll submit this is one of
12 the ones, if you go to page 741, this is one of the rare times
13 that it doesn't appear that Dr. Phillips signed it, either in the
14 part where it says MD/PA or anesthesiologist.
02:23PM 15 However, if you do go to page 763, where the blood
16 workup was ordered -- actually, this is a report of the blood
17 workup. It does say physician is who?
18 A Maryanne Phillips.
19 Q So we can safely assume that despite you and the Bureau
02:24PM 20 of Health Compliance, Health Quality Compliance being there for
21 six and a half hours that day, and that patient being sent home,
22 that patient come back and get a surgery that night?
23 A Yes. And it was confirmed by the nurse that assisted in
24 the procedure.
02:24PM 25 Q Turning to page 746.

1 A Okay.
2 **Q What is this -- what is this page?**
3 A It's a Consent For Surgery and Procedures.
4 **Q Okay. With EG's name, correct?**
02:25PM 5 A Correct.
6 **Q And it also states the same procedure that we saw in**
7 **another document?**
8 A Correct, Liposuction 360.
9 **Q And then at the very bottom there's a witness, and**
02:25PM 10 **there's a name written in. Who is that?**
11 A That's Kristin Molina.
12 **Q And dated?**
13 A 6/23/21.
14 **Q So is that -- that's the same person that you spoke to**
02:26PM 15 **while you were there doing your inspection?**
16 A That's correct.
17 **Q I want to turn to Exhibit 4 again, your allegation**
18 **letter, Ms. Friedman.**
19 A Okay.
02:26PM 20 **Q Specifically, I want to kind of focus in on question 7**
21 **and 8 on page 16.**
22 A Okay.
23 **Q So could you read out loud what you wrote in those**
24 **questions, starting with seven?**
02:27PM 25 A "It is further alleged you performed MAC sedation during

1 liposuction procedure at Vida Spa, LLC, located at 3225 South
2 Rainbow Boulevard, Suite 107, Las Vegas, Nevada, 89146. However,
3 this facility is not licensed as a medical facility. Therefore,
4 you may be in violation of NRS 630.373."
02:28PM 5 **Q So would it be fair to say that as of a little after**
6 **March 19th, when she received this, Dr. Phillips was put on notice**
7 **that she was being looked at for a possible violation of NRS**
8 **633.373?**
9 A Yes.
02:28PM 10 **Q And then, going to 8?**
11 A "It is further alleged you have continued to perform
12 liposuction procedures with sedation at Vida Spa, LLC, for
13 multiple patients, even though the facility is licensed as a
14 cosmetology establishment and not a medical facility."
02:28PM 15 **Q Okay. Turning to Exhibit 6, please.**
16 A Okay.
17 **Q Which has been admitted as the response from Ms. Beggs**
18 **on behalf of Dr. Phillips.**
19 **Turning specifically to page 22, there's a sentence in**
02:29PM 20 **the second paragraph that begins with "typically." If you can see**
21 **it?**
22 A I don't see where it beings with "typically."
23 **Q Are you on page 22?**
24 A Yes.
02:29PM 25 **Q It's in the middle of the second -- it's kind of a third**

1 **of the way down in the second paragraph.**
2 A Oh, yes.
3 **Q Do you see that? I would like you to read that out**
4 **loud. "Typically"?**
02:30PM 5 A "Typically, only local tumescent anesthesia was utilized
6 and was administered by Ms. Hankins, but on a few occasions
7 Dr. Phillips would be requested to administer propofol during
8 these procedures as needed.
9 "These procedures were not performed by Dr. Phillips but
02:30PM 10 rather by other providers at Vida Spa as further discussed herein.
11 "As an initial matter, it should be noted that at no
12 time has Dr. Phillips ever administered, prescribed or possessed
13 controlled substances while practicing at Vida Spa."
14 **Q Okay. Thank you. I'll stop you there.**
02:30PM 15 **So that first sentence, does that appear that**
16 **Dr. Phillips is admitting that she used propofol?**
17 A Yes.
18 **Q Okay. Even though a little further down she does deny**
19 **prescribing anything, or at least controlled substances, and that**
02:31PM 20 **she didn't do the -- she actually didn't do the procedures, they**
21 **were done by other providers at Vida Spa.**
22 A Correct.
23 **Q So I want you to turn to page 25 of that same letter.**
24 A Okay.
02:31PM 25 **Q And you'll see there that there's kind of a reprint of**

1 **your question 7 and 8.**
2 A Yes.
3 **Q And I would like to you read their answer or**
4 **Dr. Phillips' answer for 7.**
02:31PM 5 A "Dr. Phillips first notes that conscious sedation need
6 not be administered solely in a medical facility, but rather in
7 the office of a provider or other facility which holds a permit to
8 administer conscious sedation pursuant to Chapter 449.
9 "Dr. Phillips was not aware that Vida Spa did not hold
02:32PM 10 the necessary permits as such procedures had been performed prior
11 to Dr. Phillips contracted with Vida Spa, and she was led to
12 believe all proper permits and certifications were in place.
13 "Dr. Phillips notes that no conscious sedation was
14 administered to any patient after the incident in June 2020."
02:32PM 15 **Q So when we take a look at the behavior of Dr. Phillips**
16 **on the day of June 23rd when you were there, she didn't even come**
17 **in because she knew you were there, right?**
18 A Correct.
19 **Q Somebody told her you were there.**
02:32PM 20 **So yet she states in this letter that she just wasn't**
21 **aware that they didn't hold the correct permits?**
22 A Correct.
23 **Q So in all your experience as an investigator for the**
24 **Board, does that sound like -- does her just not showing up and**
02:33PM 25 **being called and told not to show up because there are inspectors**

1 there from a couple of different agencies, does that sound like
2 somebody who just didn't know they were doing anything wrong?
3 A No, it does not.
4 Q Okay. I would like you to move on to number 8, the
02:33PM 5 answer to number 8.
6 A "Dr. Phillips did not perform liposuction procedures at
7 Vida Spa and never has. Such procedures have always been
8 performed by other licensed providers at Vida Spa. As noted
9 above, no conscious sedation has been utilized at Vida Spa since
02:33PM 10 June 2020, only tumescent local anesthesia is being used at this
11 time."
12 Q So I want you to flip over to -- I actually want you to
13 you look at the sedation log because I want to be able to connect
14 this for everybody, because -- we know the evidence, we've seen
02:34PM 15 it. I want to be able to connect everything and I know it's going
16 to take a little time, but go to the sedation log, which is 11,
17 please.
18 A Okay.
19 Q And I want you to -- near the bottom -- again, I've got
02:35PM 20 to be careful, I don't want to read out the patient's name -- but
21 near the bottom, on May 17th, 2021.
22 A Okay.
23 Q Do you see a patient with the initials SC?
24 A Yes.
02:35PM 25 Q Okay. All right. So just going through that really

1 quickly, name of the medication was -- what was administered?
2 A Propofol.
3 Q How many vials does it say here?
4 A 25.
02:35PM 5 Q Okay. Looks like the treatment, you can make it out a
6 little bit, I think they used some initials. Can you see it?
7 A Yes, Lipo 360 with a BBL.
8 Q Yeah. Now I want you to turn to Exhibit 58. I'll
9 submit that we're going to try to look at the medical records for
02:36PM 10 that same patient.
11 A Okay.
12 Q Is this the same patient that you just saw in the
13 sedation log?
14 A Yes, it is.
02:36PM 15 Q Same date too?
16 A Correct.
17 Q I want you to turn to page -- you know, there's medical
18 records. There's lots of things written in here, I'll submit
19 that, but -- as we get there, but if you turn to page 1329 of this
02:37PM 20 exhibit, do you see -- --
21 A Okay.
22 Q -- a signature there?
23 A Yes, I do.
24 Q And is M.D. circled?
02:37PM 25 A Yes, it is.

1 Q Whose signature does that appear to be?
2 A It appears to be Maryanne Phillips.
3 Q Okay. And going back, I'm sorry, to the beginning -- or
4 actually, let's see. Sorry.
02:37PM 5 Go to the page right before, 1328.
6 A Okay.
7 Q What procedure was done there?
8 A Liposuction 360, chin, arms, thighs, with fat transfer
9 to the buttocks and breasts.
02:38PM 10 Q And if we flip back to -- I'm sorry to be keep going
11 back and forth -- but if we flip back to number 6, which is the --
12 I want you to hold this one, too, at number -- I want you to go --
13 I want to compare dates here.
14 We have this SC was a patient on 5/17/2021. And when
02:38PM 15 did Ms. Beggs date her letter on behalf of Dr. Phillips?
16 A The date on this is May 19th, 2021.
17 Q So just merely two days after doing liposuctions, she
18 states in here that she never does liposuctions, in her response
19 letter; would that be fair to say?
02:38PM 20 A Correct. Correct.
21 Q Let's go back to the sedation log, 11. I'm just going
22 to do a few of these, everyone, to just kind of give you the idea.
23 I want you to look for the date, it's the middle of
24 page 48, in the sedation log, and it's the date of 4/30/2021.
02:40PM 25 A Okay.

1 Q **Do you see one with the initials AR?**
2 A Yes, I do.
3 Q **Okay. And was propofol used on this person too?**
4 A Propofol is listed as medication.
02:40PM 5 Q **And let's go to Exhibit 43.**
6 A Okay.
7 Q **Is that the same patient?**
8 A Yes, it is.
9 Q **Okay. I forgot to ask on the last one, but I'll submit**
02:41PM 10 **that you won't find it, do you see propofol anywhere listed in**
11 **these medications on the very first page of Exhibit 43?**
12 A I do not.
13 Q **Okay. And what was the procedure, which is on page 934?**
14 A Liposuction 360, fat transfer, breasts.
02:42PM 15 Q **I'm sorry, just to kind of -- you might still have it**
16 **open anyway -- I want to go to page 1324 of Exhibit 58.**
17 A Okay.
18 Q **This was SC again, we just went over?**
19 A Correct.
02:42PM 20 Q **Again, do you see propofol listed as any of the**
21 **medications, of a number of medications, listed here?**
22 A I do not.
23 Q **Okay. And kind of tying it together, Ms. Friedman, your**
24 **initial letter for -- allegation letter went out in March. This**
02:42PM 25 **is, for SC, was March 17th, after you had put her on notice about**

1 **using propofol at an unaccredited location; fair to say?**
2 A That's correct.
3 **Q Would you be surprised if I asked you a question, that**
4 **none -- there's no propofol listed in any of these medical records**
02:43PM 5 **that came after your allegation letter? Would you be surprised?**
6 A Am I surprised?
7 **Q Yeah.**
8 A It's surprising because it's not normal.
9 **Q Not normal?**
02:43PM 10 A Correct.
11 **Q Yeah.**
12 A To list a medication that is given to a patient.
13 **Q So at least as you sit here today, with all your**
14 **experience as an investigator, you would expect to see propofol**
02:44PM 15 **listed in these lists of medications for all these patients?**
16 A Yes.
17 MR. WHITE: For the sake of time, I will -- I will
18 submit that you won't find, in many of these patients, you won't
19 find propofol listed in the medications, as far as the ones that
02:44PM 20 were in 2021, that came from the sedation lists.
21 And those are dates between April 13th, 2021, and
22 June 23rd, 2021.
23 Indulgence, please?
24 THE HEARING OFFICER: Uh-huh.
25 ///

BY MR. WHITE:

Q So my next question for you, Ms. Friedman, is would you recognize Dr. Phillips if you saw a picture of her, or a video?

A Yes, I would.

02:46PM **Q Okay. We're going to show you one or two videos that have been admitted into evidence, and we'll all watch it, and we'll still be able to see you and you'll be able to see us on sort of a smaller screen.**

(The video was played.)

02:48PM MR. WHITE: We're going to roll back a little bit because there's a better -- you can actually see a view of the doctor.

All right.

(The video was played.)

02:48PM BY MR. WHITE:

Q I'm going to stop for a second, Kim, or Ms. Friedman. Do you recognize that person?

A Yeah, that appears to be Dr. Phillips.

Q How sure are you?

02:49PM A I would say probably, from the side angles, 80 percent.

Q Okay.

(The video was played).

BY MR. WHITE:

Q All right. Ms. Friedman, we have stopped it for you

02:53PM **there.**

1 On part of the video -- we just watched the whole thing.
2 Do you recognize that person?
3 A Yes, I do.
4 Q Who is that?
02:53PM 5 A That's Dr. Maryanne Phillips.
6 Q And how sure from this picture?
7 A 99.9 percent sure.
8 Q Do you also recognize her voice in that video?
9 A Very much so. I've heard her voice a few times.
02:53PM 10 Q Would you say that's her saying, "I put back 30 CCs," or
11 something like that, when she was talking about the chin?
12 A Yes.
13 Q Thank you.
14 We're going to show you one more video, Ms. Friedman.
02:54PM 15 A Okay.
16 (The video was played.)
17 BY MR. WHITE:
18 Q Okay. Ms. Friedman, were you able to hear that they
19 offer sedation?
02:57PM 20 A Yes.
21 Q And I guess I would ask you one more time, who is the
22 person -- do you see Dr. Phillips out of these two people in this,
23 that stopped --
24 A Yes, sir. I do.
02:57PM 25 Q How sure are you that that's her?

1 A 100 percent.
2 **Q Ms. Friedman, do you now have a copy of that email in**
3 **front of you?**
4 A Yes, I do.
02:57PM 5 **Q Okay. Great. And what I'm talking about is the email**
6 **that I believe was sent to you from McKesson.**
7 A Correct.
8 **Q Okay. Which is, if you need to look at it, it's -- oh,**
9 **I'm sorry, it's a spreadsheet that we have to put up on the video.**
02:58PM 10 **Do you want to do it?**
11 MS. BYRD: Sure.
12 BY MR. WHITE:
13 **Q Okay. You saw this before when we were going through it**
14 **for admission purposes.**
02:58PM 15 A Yes.
16 **Q Is this what you received from McKesson Surgical?**
17 A Yes.
18 **Q And just one more time, what does this appear to be?**
19 A It appears to be the medications that were ordered by
02:59PM 20 Dr. Maryanne Phillips for Vida Spa.
21 **Q Okay. And for the sake of time and not having to look**
22 **for every one, are we going to see propofol in there a few times?**
23 A Yes.
24 **Q Okay. And so was there an email attached to that when**
02:59PM 25 **it was sent -- was that sent as an attachment in an email?**

1 A That was sent as an attachment in an email.
2 **Q Okay. And is the email that I'm referring to, is that**
3 **now the one that you're looking at, sitting in front of you?**
4 A That's correct.
02:59PM 5 **Q Okay. And it says -- it says it's from somebody. Who**
6 **is that?**
7 A From Krista Johnson.
8 **Q At?**
9 A At McKesson.com.
02:59PM 10 **Q Okay. Give me one moment.**
11 **So this first sentence after it says, "Dear Investigator**
12 **Friedman," could you just read that first? It's a sentence, or**
13 **actually it's two sentences. It's the first paragraph.**
14 A "McKesson Medical-Surgical, Inc., is in receipt of the
03:00PM 15 subpoena seeking records regarding purchases made by Vida Spa and
16 Maryanne Phillips, M.D., account number 62896209, for the time
17 period January 1st, 2019, to July 9th, 2021. Please see the
18 attached file that contains all sales transactions conducted by
19 Vida Spa and Maryanne Phillips, M.D., for the requested time
03:01PM 20 period."
21 **Q Thank you. Had you spoken with Ms. Johnson prior to**
22 **this?**
23 A I did not.
24 **Q How did you -- how did you come to receive this email**
03:01PM 25 **from Ms. Johnson?**

A I sent the subpoena for request for records directly to McKesson legal department.

Q Okay. And as we stated, it is to you, Ms. Friedman; is that right?

03:01PM A That is correct.

MR. WHITE: At this time I would move to admit this email, and if admitted, I suppose we should make it 54A, so it is part of 54, which is the McKesson records.

THE HEARING OFFICER: It's going to be admitted as 54A.

03:02PM (Exhibit 54A admitted into evidence.)

MR. WHITE: Thank you.

BY MR. WHITE:

Q And for a moment, Ms. Friedman, I'll let you go soon, but I want you to take a look at Exhibit 3, what's been already

03:02PM **admitted as the business license.**

A Okay.

Q From Clark County.

A Correct.

Q I just want you to read what it says in the license

03:03PM **category section.**

A "Cosmetology establishment, other services."

Q So you had mentioned before that this isn't a surgical center, it's not registered as that for the business license purposes, it is just a cosmetology establishment?

03:03PM A Correct.

Q Is that where you got that?

A Correct.

Q I'm just going to do a little making sure here.

Would you please turn to Exhibit 90.

03:04PM **Let me just ask, actually, before I have her go to that, is 90 admitted?**

THE HEARING OFFICER: It is.

MR. WHITE: Okay. I just want to make sure. Okay.

Ms. Friedman, I don't think I have anything else for

03:05PM you.

THE WITNESS: Okay.

MR. WHITE: Do you have anything else that you would like to add, or change?

THE HEARING OFFICER: Can you still hear us,

03:05PM Ms. Friedman?

THE WITNESS: I can.

THE HEARING OFFICER: Go ahead and ask that question.

BY MR. WHITE:

Q Do you have anything else you would like to add or

03:05PM **change from what we talked about?**

A No.

THE HEARING OFFICER: Ms. Friedman, I'm going to ask you a couple of questions, all in the same issue. I don't know how many questions it will be, but just to clarify.

1 EXAMINATION

2 BY THE HEARING OFFICER:

3 **Q Exhibit 7, you don't have to look at it, but Exhibit 7,**

4 **is this Dr. Borromeo's letter in response to the allegation**

03:06PM 5 **letter.**

6 **In either of your inspections of the facilities, did you**

7 **ever meet this Dr. Borromeo?**

8 A I did meet with Dr. Borromeo at his office.

9 **Q And was that on one of the two days where you did the**

03:06PM 10 **inspections, or was that something set up separately?**

11 A It was separate from the inspection days.

12 **Q Okay. So can you summarize what you got from meeting**

13 **with him?**

14 A The reason the Pharmacy Board investigator and I met

03:06PM 15 with Dr. Borromeo was because patients' specific controlled

16 substances were located on October 27, 2020, at Vida Spa, which

17 were written by Dr. Borromeo.

18 It was to establish whether or not Dr. Borromeo had a

19 patient/physician relationship with patients whom he wrote

03:07PM 20 controlled substance for.

21 **Q And was there a determination made in that regard?**

22 A Yes, Dr. Borromeo admitted that he had not examined any

23 patients for whom he wrote controlled substance prescriptions for,

24 for Vida Spa.

03:07PM 25 THE HEARING OFFICER: Thank you.

1 Do you have any questions based on those questions,
2 Mr. White?
3 MR. WHITE: No, I don't. Thank you. We covered it.
4 THE HEARING OFFICER: Very good.
03:07PM 5 Ms. Friedman, I think you are free to go at this point,
6 unless Mr. White can think of anything else.
7 MR. WHITE: I hope we have covered just about
8 everything.
9 THE HEARING OFFICER: Thank you very much, ma'am, for
03:08PM 10 your time today.
11 THE WITNESS: Thank you, sir. Thank you, everybody.
12 MR. WHITE: Thank you. Thank you, Ms. Friedman.
13 THE HEARING OFFICER: All right. Mr. White, before --
14 you can tell me, do you want to make a closing argument? Do you
03:08PM 15 want to submit it?
16 If you make a closing argument, I'm certainly going to
17 give our reporter an opportunity to have a break, if you do.
18 MR. WHITE: Would you rather just have me submit in it
19 writing?
03:08PM 20 THE HEARING OFFICER: I'm easy.
21 MR. WHITE: We can take a break. It's not that long.
22 THE HEARING OFFICER: Okay. Are you ready for a break
23 before we close?
24 Let's take a good five minutes. Go off the record.
03:08PM 25 (A recess was taken.)

1 THE HEARING OFFICER: All right. So we're back on the
2 record in the matter of Charges and Complaint against
3 Maryanne D. Phillips, M.D.
4 And, finally, I'll note one more time it's Case Number
03:19PM 5 21-10032-1.
6 And on behalf of the IC, Mr. White has concluded his
7 evidence and now he is going to present some closing argument.
8 Mr. White.
9 MR. WHITE: Thank you, Mr. Woodman.
03:19PM 10 On behalf of the Investigative Committee we'd like to
11 thank you, Hearing Officer Woodman, Madam Court Reporter, for your
12 hard work; and thank, of course, the witnesses for their time and
13 consideration.
14 As I mentioned in my opening statement, we're here to
03:20PM 15 determine if a reasonable basis exists to continue the suspension
16 of Dr. Phillips' license to practice medicine.
17 I'll now break it down and explain how I submit that the
18 IC has met its burden.
19 You've heard at length from Ms. Friedman, senior board
03:20PM 20 investigator from the Nevada State Board of Medical Examiners.
21 She explained that she inspected Vida Spa twice, once in
22 October 2020 and once in June 2021.
23 During those inspections, she was able to gather
24 evidence. And you heard her testimony that she was never sent the
03:20PM 25 sedation log when she requested records.

1 However, she was able to obtain that sedation log, what
2 seems like through just luck, being in the right place at the
3 right time. It happened to be laying on a table. And that
4 obviously spurred on a lot of the investigation in this case,
03:21PM 5 including her getting a subpoena for those records, for those
6 medical records, most of the ones you see here in all these
7 binders, who came from that sedation log.
8 She also was able to take pictures, which you have seen
9 and we went through, of propofol being used, so obviously sedation
03:21PM 10 is being used in a place that's not licensed to use it.
11 She also was able to obtain -- or saw, excuse me -- she
12 saw a patient prepped for surgery. And you heard her testimony
13 that she knows it looks like, what a prepped patient looks like
14 because she was, I think she said, a surgical tech. So she
03:21PM 15 understands what that looks like.
16 And as we went through the evidence, you were able to
17 determine or we were able to establish that that patient, that EG
18 who was there for a surgery in the morning at 9:15, was sent home
19 by Ms. Platfoot because inspectors were, you know, looking at
03:22PM 20 everything at their office.
21 However, EG came back for a surgery, the same surgery
22 that she was scheduled for in the morning, she had exactly that
23 done at, I believe it was 6:15 at night, and it was completed.
24 So definitely some -- we've established that there is
03:22PM 25 some things going wrong there, some things running afoul of the

1 statutes that we have to use in these kinds of cases, under the
2 Medical Practice Act.
3 We were able to establish that, through her
4 authentication, that she compiled nearly all the evidence in these
03:23PM 5 binders that has now been admitted into evidence, except for at
6 least -- except for the settlement agreement and the videos, which
7 we got through and admitted through Ms. Byrd.
8 Ms. Friedman sent Dr. Phillips a detailed allegation
9 letter, we went through that, to which Dr. Phillips did not answer
03:23PM 10 entirely truthfully.
11 In fact, two days after doing -- using propofol on a
12 patient, and doing, which was, I think SC, and then doing a
13 liposuction on SC, two days later she had her attorney write a
14 letter stating that she never did liposuctions, and she only used
03:23PM 15 propofol -- in one of the paragraphs in her response, she said she
16 only used it as needed, thereby also admitting that she used
17 propofol in a place that wasn't licensed.
18 And I think we were also able to establish that the
19 behavior of Dr. Phillips and, really, Ms. Platfoot in calling
03:24PM 20 Dr. Phillips the day of the June 23rd, 2021, inspection, does not
21 show somebody who didn't know that she was working at an
22 unaccredited location.
23 Dr. Phillips, her behavior shows somebody who very well
24 knew that she was doing something wrong and skirting around the
03:24PM 25 statutes, because she didn't come in that day -- well, until later

1 that night when everybody -- when all the inspectors had left and
2 gone away, and then they did a surgery on EG later that night.
3 We were able to establish through Ms. Friedman also that
4 the medical records that she compiled from the subpoena in
03:25PM 5 Exhibit 90, that came from the sedation log, the same names, did
6 not contain propofol in the medical records. Again, showing an
7 effort to conceal the use of propofol.
8 I don't see any reason why you would have the -- use
9 propofol in a sedation log, which is being used for whatever
03:25PM 10 reason, but then not putting it in the medical records, which is
11 kind of also dangerous, a dangerous thing. If you kind of
12 extrapolate a little bit, if a doctor from another office orders
13 the medical records for this surgery to see what happened to that
14 patient at a year or two down the road, they are not going to have
03:25PM 15 this patient was on propofol, if they order the medical records.
16 And they are probably, I'm going to say, I would submit
17 they would not get the sedation log, because one of the reasons
18 they won't get it is it has everybody's name in a row, so it would
19 be a violation of HIPAA to send that sedation log to anybody,
03:26PM 20 really. If you were just trying to send it for one patient, you'd
21 have all those other names on there if they weren't redacted
22 somehow.
23 As I did during testimony with Ms. Friedman, I did
24 submit that you will not find propofol listed in any of those 59
03:26PM 25 patients' medical records. I did that for the sake of time. We

1 didn't go through all 59. We went through about four of them.
2 Lots of them are signed by Dr. Phillips in the M.D.
3 section, some are signed right over the middle, because on one
4 side it says M.D. and there's a circle around M.D., and then
03:26PM 5 there's anesthesiologist on the other side, and it leaves a space
6 for that.
7 Sometimes she signs it in the middle. You'll see that
8 too. We didn't get totally into that, but there are some that you
9 will see like that.
03:27PM 10 Ms. Friedman was also, through an exhibit, was able to
11 show you that some of the evidence she obtained shows that this is
12 just a cosmetology establishment. They are not allowed to do
13 sedation without a permit, and did -- and are not allowed to
14 perform surgeries there. Again, it's a cosmetology establishment.
03:27PM 15 It is not, according to NRS 449, a place to do a
16 surgery, unless there's the proper permitting, which they do not
17 have.
18 You also heard from Patient A. You heard mostly about
19 her experience, being a patient of Vida Spa from the beginning,
03:28PM 20 starting on March 18th, 2021, when she first visited, all the way
21 to the end, I guess a couple of days after her surgery on
22 May 20th, 2021.
23 But you heard about how terrible her experience was and
24 how frightening it was to her. She hears a woman who looked on, I
03:28PM 25 guess it showed up as she stated in her testimony, it showed up on

1 her feed on Instagram, and she clicked on it and had been looking
2 around, and it was much less expensive than other places she had
3 looked.
4 She looked at the comments, some of the reviews, and all
03:28PM 5 seemed really great, except that you also hear from her that they
6 didn't contact her between March and May, except to try and change
7 the time of her surgery. And she was constantly calling them.
8 No one really checked on her to see if she was doing
9 okay, or if she was still ready and willing to do the surgery, not
03:29PM 10 to mention she signed a consent form minutes before going into a
11 room to have surgery, where, and you heard her state, yeah, I
12 would have really liked to have had that consent form back in
13 March, I could have taken time to review it brought it back at my
14 own leisure. She did not have that opportunity.
03:29PM 15 She testified that she was frightened or fearful and
16 nervous and that it was odd to be getting liposuction -- and I'm
17 paraphrasing, excuse me for that -- but that it was odd to be
18 getting liposuction in the evening at Vida Spa, coming in at 5:30
19 when she was actually scheduled originally for a 10:30
03:29PM 20 appointment.
21 We don't know the reason for that. We don't have the
22 other side here to offer that.
23 I also think, while I'm thinking about it, we also don't
24 know how much experience Dr. Phillips has, or training, at doing
03:30PM 25 liposuctions. I'll submit I don't think it's very much, but we

1 don't have her here to refute that.
2 So, you know, you heard this straight from a member of
3 the public, a patient, and that's what the Board -- those are the
4 people the Board has a duty to protect. And hearing it straight
03:30PM 5 from Patient A, I hope was helpful.
6 She is still experiencing a lot of pain. She testified
7 that she still has bumps where I suppose it should be smooth now.
8 She paid $6500 for a procedure and it's not what she wanted at
9 all. Her experience was, as she stated, absolutely awful. She's
03:30PM 10 not satisfied. She's a thousand percent dissatisfied.
11 I would submit that her testimony, along with all the
12 other testimony that you heard from Ms. Friedman, would establish
13 that Patient A and other patients were and are at risk of imminent
14 and continued harm, per this summary suspension statute, which is
03:31PM 15 630, NRS 630.326.
16 Just as a side note, Ms. -- or, excuse me, Patient A was
17 able to 1,000 percent identify in the video Dr. Phillips and
18 Giselle Platfoot.
19 Kind of going back to the evidence of concealing the use
03:31PM 20 of propofol, this goes more towards Ms. Friedman's testimony,
21 again, there's no propofol listed in the medical records after
22 Ms. Friedman sent her allegation letter, at least the ones that we
23 got per our subpoena from the sedation log. There's no -- there's
24 no propofol listed. Yet we have a sedation log that's in evidence
03:32PM 25 that shows there was propofol given on those dates to the same

1 patients. Easy to match up.
2 One more thing about Patient A, I just wanted to make
3 sure that this is still in there. She did testify that
4 Dr. Phillips did not perform any follow-up visit that would be
03:33PM 5 required by a surgeon at all.
6 In fact, somebody else removed her drains. She thinks
7 it was a nurse, one of the nurses that was also sort of the
8 massage therapist, I think, is what I took from that. So somebody
9 else had to remove the drains that were placed in her following
03:33PM 10 the surgery.
11 The only time -- in fact, the only time she saw
12 Dr. Phillips was the day of the surgery. She didn't see her
13 before. She had never met her. And then Dr. Phillips was quickly
14 out the door after the surgery. I guess she was already gone even
03:33PM 15 before Patient A got in the car.
16 So we have provided and presented several violations of
17 the various statutes that are addressed in the summary suspension
18 order, that right now -- I mean it's temporary, but I think we've
19 presented enough evidence to make it indefinite and to continue on
03:34PM 20 with the summary suspension of Dr. Phillips pursuant to
21 NRS 630.326.
22 All of that evidence we presented establishes that a
23 reasonable basis exists that Dr. Phillips' license to practice
24 medicine should remain suspended as she puts the health, safety
03:34PM 25 and welfare of the public, or any patient served, at risk of

1 imminent or continued harm. Thank you.

2 THE HEARING OFFICER: Thank you. All right. We're off

3 the record.

4 And that should conclude the record.

03:34PM 5 (The proceedings concluded at 3:34 p.m.)

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1 STATE OF NEVADA)
) ss.
2 WASHOE COUNTY)
3
4 I, CONSTANCE S. EISENBERG, a Certified Court Reporter,
5 do hereby certify:
6 That on Wednesday, August 18, 2021, at the hour of 9:07
7 a.m. of said day, at the Nevada State Board of Medical Examiners,
8 9600 Gateway Drive, Reno, Nevada, I was present and took verbatim
9 stenotype notes of the proceedings held before CHARLES B. WOODMAN,
10 ESQ., Hearing Officer in the within-entitled matter, and
11 thereafter transcribed the same into typewriting as herein
12 appears;
13 That I am not a relative nor an employee of any of the
14 parties, nor am I financially or otherwise interested in this
15 action;
16 That the foregoing transcript, consisting of pages 1
17 through 165, inclusive, is a full, true and correct transcription
18 of my stenotype notes of said proceedings.
19 DATED: At Reno, Nevada, this 27th day of August, 2021.
20
21
22 Constance S. Eisenberg
23 CONSTANCE S. EISENBERG
NV CCR #142, RMR, CRR
24
25

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EXHIBIT 99

EXHIBIT 99

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Investigation of MARYANNE DEFOREST PHILLIPS, M.D. License No. 7635	**CASE NO.: 21-10032-1**

FILED
NOV 24 2021
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

ORDER AFTER HEARING CONTINUING SUSPENSION

This matter came on for hearing on 18 August, 2021, at the Northern Nevada office of the Board of Medical Examiners of the State of Nevada (the "Board"). Appearing on behalf of the Investigative Committee ("IC") of the Board was Donald K White, Esq. Despite being properly served with notice of the hearing, Respondent Dr. Maryanne D. Phillips, M.D., did not appear either at the Northern Nevada or Southern Nevada office of the Board.

The Board summarily suspended Respondent's license to practice medicine on June 28, 2021, pursuant to and in accordance with Nevada Revised Statutes ("NRS") 630.326(1). This hearing was held within sixty (60) days following that Summary Suspension pursuant to and in accordance with NRS 630.326(2). Three witnesses testified on behalf of the IC: Kimberly Friedman; Patient A, and; Margaret F. Byrd. (Ms. Friedman was recalled to testify further after Ms. Byrd's testimony.) The following evidence was adduced at the hearing, none of which was contested:

FACTUAL FINDINGS

Dr. Phillips is subject to an existing Settlement Agreement with the Board dated June 10, 2019 (Exhibit ("Ex.") 1). Pursuant to the Agreement, Dr. Phillips is presently on probationary status;

Giselle Platfoot owns Vida Spa, LLC, which operates within Clark County, Nevada (Transcript, ("T.") 24-25, Ex. 2);

The IC sent two allegation letters, including an Order To Produce Records to Dr. Phillips (T. 26-27, Ex. 4, 5);

Dr. Phillips was initially represented by Lyn Beggs, Esq. (Ex. 6). However, Ms. Beggs ultimately terminated representation of Dr. Phillips well before the formal hearing;

In its own separate investigation, the Nevada State Board of Pharmacy received information, which it shared with the IC, that Dr. Phillips was administering controlled substances to patients of Vida Spa (Ex. 7). The Pharmacy Board ordered Dr. Phillips and Vida Spa to cease all such administration due to Dr. Phillips' suspended status (Ex. 9, 10). Dr. Phillips was ordering controlled substances and using those substances to sedate the patients of Vida Spa on a routine and regular basis, albeit many of the records of such only identify Dr. Phillips by the abbreviation "PH" (T. 33-39, Ex. 11-47, 53-90);

On July 2, 2021, the Nevada State Department of Health and Human Services issued an order to Vida Spa and Dr. Phillips to cease and desist operations of their unpermitted outpatient facility (Ex. 48). On the same day, the Nevada State Department of Health and Human Services denied Vida Spa's application to operate an outpatient facility due to inappropriate procedures and reporting inconsistent with the Department's findings in its investigation (Ex. 49). Clark County suspended Vida Spa's business license on July 29, 2021 (Ex. 50);

On or about May 20, 2021, Patient A presented at Vida Spa for a fat transfer as part of a "Lipo 360", and/or "Brazilian butt lift" procedure (T. 56-59). Patient A had learned of Vida Spa on her social media news feed (T. 60). Vida Spa's pricing was significantly less than what Patient A had seen from other providers for a similar procedure (T. 60-61). Patient A paid Vida Spa a total of $6,500.00 for the procedure (T. 62-63). In her initial consultations, Patient A was not advised that the procedure would require incisions from which a cannula would be inserted to remove fat from her body (T. 64-65). Patient A's initial consultation was with Vida Spa owner Giselle Platfoot. Patient A was not seen by a nurse, by Dr. Phillips, or by anyone other than Ms. Platfoot at that time (T. 64-67). Vida Spa attempted to reschedule Patient A's procedure due to the unavailability of the doctor, but ultimately moved the appointment back

to 5:30 p.m. on the same date, which Vida Spa said was a normal time (T. 67-71);

Just prior to her surgery, Patient A received from Vida Spa and filled out and signed a "Consent for Surgery and Procedures" form (Ex. 22, T. 73-74). At no time prior to that had Patient A ever seen the Consent form (T. 74). Patient A felt that she should have received the Consent forms in advance so she could take them home with time to review and consider them (T. 77). The room where the procedure was being performed did not appear to Patient A to be what she expected, and the appearance of the room scared Patient A (T. 74-76). Patient A was concerned that, at no time from her first visit to Vida Spa until just before her procedure did anyone from Vida Spa explain to her how the procedure would take place and what was involved (T. 77-78). The overall experience at the time of her procedure left Patient A feeling very uncomfortable and fearful (T. 79);

Patient A met Dr. Phillips for the first time just prior to her procedure (T. 79-80). Patient A felt that Dr. Phillips was trying to "sell" her on additional procedures just before her fat transfer procedure (T. 82-83). Dr. Phillips did not mention to Patient A that she would be sedated, and/or that Propofol would be used in the sedation (T. 84). Patient A was never asked if she had any negative history with Propofol (T. 85). Patient A woke up in pain prior to conclusion of the procedure and heard Dr. Phillips tell her assistant to "give her more" (T. 86). Just prior to her procedure, Dr. Phillips asked Patient A if she "wanted the fat transferred anywhere else", and Patient A decided to have some fat transferred to her breasts (T. 87-89);

After the procedure ended, Patient A was in "intense" pain (T. 90). During her recovery, Dr. Phillips and/or her assistant walked Patient A to the restroom, and at the door, they "they let me pretty much go", despite the fact that Patient A was still "very, very dizzy", and as Patient A grabbed onto the sink, she thought she was going to pass out, and almost fell back, when the nurse "grabbed [her] hand", and "had she not grabbed my hand, I would have fell so hard, so hard, because - - with all my weight, just flying back" (T. 89-90);

Immediately after the restroom incident Patient A was placed in a wheelchair and left for home. At that time, only Dr. Phillips and her assistant remained in the Vida Spa facility, which was otherwise dark and locked (T. 91-93). However, after being wheeled out of the

room where the procedure occurred, Patient A did not see Dr. Phillips at all (T. 93). "The assistant gave my best friend the aftercare of what, pretty much on the paperwork, of everything I needed to be eating, down to, really, when was supposed to walk, down to my compression socks, told me -- this is what I remember, as I was getting -- climbing -- and I went down an elevator" (T. 93). Patient A described her aftercare instruction as follows: "As I was climbing in, I remember the assistant saying your butt is going to be a little swollen, but it's going to get a little bit bigger, and then you're going to see it drop, so don't be concerned of that. But that's all that was said. It was nothing of -- it was more like a 'here you go', and that was it" (T. 92-93). All aftercare prescriptions were provided to Patient A's friend in a sealed bag. Those prescriptions included Elavil, Ibuprofen 800 milligram tablets, Moxifloxacin, and Clindamycin (Ex. 22, T. 94-96);

Patient A identified Dr. Phillips as well as Giselle Platfoot via a video shown by counsel for the IC (T. 97). At the time of the hearing, Patient A still has painful lumps post-surgery. She was advised that she'd need ten massages and afterward she'd "be perfect", but she has had some thirty massages and she's still going once or twice per week "depending on how bad I am that week." Patient A's pain is still "horrible" and is accompanied by cramps. (T. 101-102);

The drains were not removed from Patient A until seven days post-procedure despite the massage therapist at Vida Spa saying they were ready for removal at four days (T. 103-104). Patient A testified that she is "100 percent dissatisfied" with Vida Spa, and regrets ever going there, and that "they don't give you the comfort or talk to you or provide what you need to heal or prepare, they just give you a piece of paper and they collect your money. That's all" (T. 104). Patient A was told, presumably by Vida Spa personnel, that she should have been up, walking on her own the day after her procedure, however she needed help getting to the bathroom for four or five days afterward (T. 104-105);

Patient A only met and spoke with Dr. Phillips on the day of her procedure. She had no follow up with Dr. Phillips afterward (T. 105). As of the date of the hearing, Patient A continues to have to wear her post-procedure undergarments to help with her ongoing pain (T.

105-106). Despite having been previously advised that Vida Spa would provide the post-procedure clothing, Patient A was told by Vida Spa personnel just prior to her procedure that she would have to obtain it, as Vida Spa did not have it, requiring Patient A to send her friend and daughter to obtain that from a supplier (Ex. 22, T. 106-110);

In the IC's inspections of Vida Spa's facilities, it was discovered that Vida Spa, a business holding only a license for cosmetology, was performing surgical procedures, and consistent therewith was performing sedation (Ex. 51, T. 121-132). The inspections revealed prescription bottles with Dr. Phillips shown as the prescribing physician, and that on certain documents, Dr. Phillips was identified as the "Medical Director" (Ex. 51, T. 126);

After being advised that Dr. Phillips was on her way to Vida Spa to perform a procedure on the day the IC investigators were inspecting the premises, Vida Spa's owner Giselle Platfoot "left the room, returned shortly thereafter . . . And because Dr. Phillips was informed that we were from - - the Compliance Medical Board was there, that she [Dr. Phillips] was not going to arrive" (T. 133). As a result, a patient who was waiting for a scheduled procedure was sent away (T. 133). However, Vida Spa records reveal that the same patient returned at 6:15 that same evening and had her procedure, and a thorough review of the records show that Dr. Phillips was the treating physician (T. 136-138, Ex. 37);

Vida Spa did not produce its Sedation Log to the IC (T. 135-136). Rather, the Sedation Log was discovered by a Health Care Quality Compliance inspector during an inspection of Vida Spa's facilities (T. 136). Kristin Molina, RN, an employee of Vida Spa, advised that the Sedation Log was kept separately from other charts and records by orders of Ms. Platfoot and Dr. Phillips (T. 136-137);

Dr. Phillips was performing numerous surgical procedures, in which she was sedating patients, after she and Vida Spa were put on notice of the alleged violations of exceeding the scope of licensure (T. 138-140). Dr. Phillips was sedating patients, despite allowing her then counsel to deny such (Ex. 6, T. 139-142), and allowing her counsel to claim that Dr. Phillips was simply unaware that Vida Spa did not have the proper permits and certifications in place to perform the procedures that Dr. Phillips was performing, including the sedation of patients

(Ex. 6, T. 141-142). Dr. Phillips also allowed her then counsel to claim that "Dr. Phillips did not perform liposuction procedures at Vida Spa and never has", despite clear evidence to the contrary (Ex. 6, T. 142-143). Despite allowing her counsel to claim that conscious sedation was not being performed at Vida Spa after June, 2020, the evidence shows that Dr. Phillips was performing conscious sedation using Propofol on multiple occasions thereafter, and that such statement on Dr. Phillips' behalf was knowingly untruthful (Ex. 6, 43, 58, (see also Ex. 15-47), T. 142-146). In fact, just two days after her counsel made those denial statements on her behalf, Dr. Phillips was again using Propofol to sedate patients while performing liposuction procedures (Ex. 6, 58, T. 143-145). Despite records showing procedures where Propofol was routinely used, all medical records for patients of Vida Spa and Dr. Phillips for procedures performed after the IC's allegation letter was sent out do not show the use/administration of Propofol (Ex. 6, 15-47, T. 146-147).

LEGAL CONCLUSIONS

NRS 630.326 states in pertinent part that:

> 1. If an investigation by the Board regarding a physician, . . . reasonably determines that the health, safety or welfare of the public or any patient served by the licensee is at risk of imminent or continued harm, the Board may summarily suspend the license of the licensee pending the conclusion of a hearing to consider a formal complaint against the licensee. The order of summary suspension may be issued only by the Board or an investigative committee of the Board.
>
> 2. If the Board or an investigative committee of the Board issues an order summarily suspending the license of a physician . . . pursuant to subsection 1, the Board shall hold a hearing not later than 60 days after the date on which the order is issued, unless the Board and the licensee mutually agree to a longer period, to determine whether a reasonable basis exists to continue the suspension of the license pending the conclusion of a hearing to consider a formal complaint against the licensee. If no formal complaint against the licensee is pending before the Board on the date on which a hearing is held pursuant to this section, the Board shall reinstate the license of the licensee.

The Order of Summary Suspension filed with the Board on June 28, 2021, is incorporated herein by this reference. The undersigned hearing officer finds that each of the findings set out therein has been proven by the IC's case at the hearing, with the exception that a total of at least fifty-nine (59) patients were proven to have received general anesthesia,

conscious sedation or deep sedation via administration of Propofol at Vida Spa, and that such administration was under the direction of Dr. Phillips, and that Vida Spa and Dr. Phillips falsified and attempted to conceal records of such. Such record falsification and concealment violate NRS 630.3062(1)(a).

The Board did file a formal Complaint against Dr. Phillips pursuant to NRS 630.326(2). The facts set out above show that Dr. Phillips, who is on probationary status with the Board, is practicing outside the terms of her Settlement Agreement, and contrary to the health, safety, and welfare of the public in general, as well as any patients actually being treated by Dr. Phillips.. Further, it is reasonable to determine from the facts adduced at the hearing that Dr. Phillips' continuing practice creates a risk to the health, safety, or welfare of the public, along with any patients who may seek treatment from her.

Wherefore, the Summary Suspension issued by the Board on June 28, 2021, is hereby ordered continued.

Dated this 23rd day of November, 2021.

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

EXHIBIT 100

EXHIBIT 100

LV194756

ORIGINAL

BEFORE THE BOARD OF MEDICAL EXAMINERS

OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against MARYANNE D. PHILLIPS, M.D., Respondent.	Case Nos.: 12-10032-1 & 14-10032-1

FILED

SEP 09 2016

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

SETTLEMENT AGREEMENT

The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board) and Maryanne D. Phillips, M.D. (Respondent), a licensed physician in Nevada, represented by John A. Hunt, Esq. of the law firm Morris Polich & Purdy, LLP, hereby enter into this Settlement Agreement (Agreement) based on the following:[1]

A. Background

1. Respondent is a physician licensed by the Board, pursuant to Chapter 630 of the Nevada Revised Statutes (NRS) and Chapter 630 of the Nevada Administrative Code (NAC) (collectively, the Medical Practice Act), to practice medicine in Nevada since 1995 (License No. 7635).

2. On November 5, 2012, in Case No. 12-10032-1, the IC filed a formal Complaint (Complaint – No. 12-10032-1) charging Respondent with violations of the Medical Practice Act. Specifically, Complaint - No. 12-10032-1 alleges three counts. Count I alleges a violation of

[1] All agreements and admissions made by Respondent are solely for final disposition of this matter and any subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, Respondent's agreements and admissions are not intended or made for any other use, such as in the context of another state or federal government regulatory agency proceeding, state or federal civil or criminal proceeding, any state or federal court proceeding, or any credentialing or privileges matter.

NRS 630.301(3), disciplinary action taken by another state. Count II alleges a violation of NRS 630.306(11), failure to report in writing, within 30 days, any disciplinary action taken against the licensee by another state. Count III alleges a violation of NRS 630.306(2)(a), engaging in any conduct that is intended to deceive.

3. For purposes of this Agreement, Respondent and the IC further stipulate and agree that that the IC represented it was intending to amend Complaint - No. 12-10032-1to include additional counts regarding allegations that Respondent failed to report to the Board that the Medical Board of California had taken disciplinary action against Respondent and failed to report to the Board that the Nevada State Board of Pharmacy (BOP) had taken disciplinary action against Respondent. The IC also represented that it was going to amend Complaint - No. 12-10032-1to include additional counts regarding the disciplinary action taken by The Medical Board of California against Respondent and the disciplinary action taken by the BOP against Respondent. Accordingly, this Agreement addresses, resolves, and takes into consideration any and all claims/counts the Board or IC may have brought against Respondent relative to said matters, including but not necessarily limited to, any count alleging a violation of NRS 630.301(3), disciplinary action taken by another state, any count alleging a violation of NRS 630.306(11), failure to report in writing, within 30 days, any disciplinary action taken against the licensee by another state, or any count alleging a violation of NRS 630.306(2)(a), engaging in any conduct that is intended to deceive. Accordingly, Respondent and the IC agree that any and all allegations or claims regarding Respondent allegedly failing to report to the Board that the Medical Board of California and the BOP had taken disciplinary action against Respondent are hereby waived and/or released by the IC and/or the Board. Again, for ease of reference, reference to "Complaint – No. 12-10032-1" shall also include the matters addressed in this paragraph.

4. On April 22, 2014, in Case No. - 14-10032-1, the IC filed a formal Complaint (Complaint – No. 14-10032-1) charging Respondent with violations of the Medical Practice Act. Complaint - No. 14-10032-1alleges three counts. Count I alleges one violation of NRS 630.3062(1), failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient. Count II alleges one violation of NRS 630.301(4), malpractice as defined by NAC 630.040. Count III alleges one violation of NRS 630.306(2)(b), engaging in any

conduct that the Board has determined is a violation of the standards of practice established by regulation of the Board.

5. Respondent was properly served with a copy of Complaint - No. 12-10032-1and with a copy of Complaint – No. 14-10032-1, and has reviewed both Complaints, understands both Complaints, and has had the opportunity to consult with competent counsel concerning the nature and significance of the Complaints.

6. Respondent is hereby advised of her rights regarding this administrative matter, and of her opportunity to defend against the allegations in Complaint - No. 12-10032-1and in Complaint – No. 14-10032-1. Specifically, Respondent has certain rights in this administrative matter as set out by the United States Constitution, the Nevada Constitution, the Medical Practice Act, and the Nevada Administrative Procedure Act (APA), which is contained in NRS Chapter 233B. These rights include the right to a formal hearing on the allegations in Complaint - No. 12-10032-1and in Complaint – No. 14-10032-1, the right to representation by counsel, at her own expense, in the preparation and presentation of her defense, the right to confront and cross-examine the witnesses and evidence against her, the right to written findings of fact, conclusions of law, and order reflecting the final decision of the Board, and the right to judicial review of the Board's order, if the decision is adverse to her.

7. Respondent understands that, under the Board's charge to protect the public by regulating the practice of medicine, the Board may take disciplinary action against Respondent's license, including license probation, license suspension, license revocation, and imposition of administrative fines, as well as any other reasonable requirement or limitation, if the Board concludes that Respondent violated one or more provisions of the Medical Practice Act.

8. Respondent understands and agrees that this Agreement, by and between Respondent and the IC, is not with the Board, and that the IC will present this Agreement to the Board for consideration in open session at a duly noticed and scheduled meeting. Respondent understands that the IC shall advocate for the Board's approval of this Agreement, but that the Board has the right to decide in its own discretion whether or not to approve this Agreement. Respondent further understands and agrees that if the Board approves this Agreement, then the terms and conditions enumerated below shall be binding and enforceable upon her and the Board.

B. Terms & Conditions

NOW, THEREFORE, in order to resolve the matters addressed herein (i.e., the matters with regards to Complaint - No. 12-10032-1and Complaint – No. 14-10032-1), Respondent and the IC hereby agree to the following terms and conditions:

1. Jurisdiction. Respondent is, and at all times relevant to Complaint - No. 12-10032-1and Complaint - No. 14-10032-1has been, a physician licensed to practice medicine in Nevada subject to the jurisdiction of the Board as set forth in the Medical Practice Act.

2. Representation by Counsel/Knowing, Willing, and Intelligent Agreement. Respondent understands that she may retain and consult counsel prior to entering into this Agreement at her own expense. Respondent acknowledges she is represented by counsel, John A. Hunt, Esq. of the law firm Morris Polich & Purdy, LLP, and wishes to resolve the matters addressed herein with counsel. Respondent agrees that if representation by counsel in this matter materially changes prior to entering into this Agreement and for the duration of this Agreement, that counsel for the IC will be timely notified of the material change. Respondent agrees that she knowingly, willingly, and intelligently enters into this Agreement after full consultation with and upon the advice of her counsel.

3. Waiver of Rights. In connection with this Agreement, and the associated terms and conditions, Respondent knowingly, willingly, and intelligently waives all rights in connection with this administrative matter. Respondent hereby knowingly, willingly, and intelligently waives all rights arising under the United States Constitution, the Nevada Constitution, the Medical Practice Act, the APA, and any other legal rights that may be available to her or that may apply to her in connection with the administrative proceedings resulting from Complaint - No. 12-10032-1and Complaint - No. 14-10032-1filed in this matter, including defense of the Complaints, adjudication of the allegations set forth in the Complaints (in addition, as more fully addressed above, this also includes any anticipated amendments to Complaint 12-10032-1), and imposition of any disciplinary actions or sanctions ordered by the Board. Respondent agrees to settle and resolve the allegations of Complaint - No. 12-10032-1and Complaint - No. 14-10032-1as set out by this Agreement without a hearing or any further proceedings, and without the right to judicial

review.

4. Acknowledgement of Reasonable Basis to Proceed. Respondent acknowledges that the IC believes it has a reasonable basis to allege that Respondent engaged in conduct that is grounds for discipline pursuant to the Medical Practice Act. The Board acknowledges Respondent is not admitting that the Board's claims/counts as alleged in the Complaints have merit and Respondent is agreeing to resolve this matter to avoid the costs of hearing and potential subsequent litigation. Respondent asserts if this matter were to proceed to hearing, she has evidence, witnesses, expert witness(es), and defenses to the counts/claims alleged in Complaint - No. 12-10032-1and Complaint – No. 14-10032-1, but for the purposes of resolving the matter and for no other purpose, Respondent waives the presentation of evidence, witnesses, expert witnesses, and defenses in order to effectuate this Agreement.

5. Consent to Entry of Order. In order to resolve Complaint - No. 12-10032-1 and Complaint - No. 14-10032-1pending against Respondent without incurring any further costs or the expense associated with a hearing, Respondent hereby agrees that the Board may issue an order finding that Respondent engaged in conduct that is grounds for discipline pursuant to the Medical Practice Act, to wit: one count of disciplinary action taken by another state, a violation of NRS 630.301(3), as outlined in Count I of Complaint No. - 12-10032-1 and one count of malpractice, a violation of NRS 630.301(4), as outlined in Count II of Complaint - No. 14-10032-1. Accordingly, the following terms and conditions are hereby agreed upon:

A. Respondent agrees to allow her license to practice medicine in the state of Nevada to be placed on probation for a period of 36 months from the date of the Board's acceptance, adoption and approval of this Agreement (probationary period). The following terms and conditions shall apply during Respondent's probationary period:

1. During the probationary period, Respondent shall not prescribe any Class II - IV medications. If Respondent obtains a medical license coupled with the authority to prescribe Class II - IV medications in another jurisdiction, the Board will not object to Respondent prescribing Class II - IV medications in the jurisdiction in which Respondent obtained a medical license coupled with the

authority to prescribe Class II – IV medications. However, if Respondent prescribes any Class II – IV medications in another jurisdiction to any patient from Nevada, the IC shall be authorized to immediately summarily suspend Respondent's license to practice medicine in Nevada.

2. During the probationary period, Respondent shall not administer drugs to patients except those that are necessary to perform her duties as an anesthesiologist. Accordingly, Respondent shall be able to administer drugs to patients to perform her duties as an anesthesiologist. The only drugs Respondent shall be able to administer to patients to perform her duties as an anesthesiologist are outlined in Exhibit "1." The IC shall monitor Respondent's administration of said drugs through reasonable random audits of her profile with the Nevada State Board of Pharmacy's Prescription Monitoring Program and/or random audits of her patient medical charts. If Respondent administers any drugs outlined in Exhibit "1" to patients, Respondent shall be able to provide documentary proof upon request from a Board investigator that said drugs were administered solely to perform her duties as an anesthesiologist.

3. During the probationary period, Respondent agrees the Board shall have unfettered access to Respondent's medical records and agrees they may be inspected randomly and without prior notice by investigators of the Board during the probationary period, to ensure that Respondent's subsequent practice and record-keeping protocols are consistent with Nevada statutes and regulations.

4. During the probationary period, Respondent will be responsible for the costs involved in the ongoing administrative oversight relative to the probationary period and shall reimburse the Board within 30 days of a written request for reimbursement of the same.

5. During the probationary period, Respondent shall not engage, in any manner, in the practice of pain management.

6. During the probationary period, Respondent shall not be employed in any manner with a pain management clinic/practice.

7. During the probationary period, Respondent shall not have any business interest/ownership in any pain management clinic/practice.

8. During the probationary period, Respondent shall not work at any location where pain management is practiced.

9. During the probationary period, Respondent shall not supervise any physician assistants.

10. During the probationary period, Respondent shall provide the Board with the physical address of each location of employment. If an address of employment changes, Respondent shall notify the Board in writing of the new physical address within five business days of the change.

11. During the probationary period, Respondent shall comply with all laws related to the practice of allopathic medicine, whether state or federal, whether statutory or regulatory, and whether contained in NRS and NAC chapters 629, 630, 453, 454, 585 and 639.

12. Respondent shall allow Board investigators to enter each location where Respondent is practicing medicine at any time during each practice location's normal operating hours, including any room or area therein, to inspect the practice and review any or all of her patient and practice records.

B. Respondent may petition the Board before the probationary period has expired to request that the terms of this Agreement be modified or that the probationary period be terminated before the 36-month probationary period referenced above expires.

C. With regards to Complaint - No. 12-10032-1, Respondent shall pay a fine of five hundred and xx/100 dollars ($500.00) for Count I within 30 days of the Board's acceptance, adoption and approval of this Agreement.

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D. With regards to Complaint – No. 14-10032-1, Respondent shall pay a fine of five hundred and xx/100 dollars ($500.00) for Count II within 30 days of the Board's acceptance, adoption and approval of this Agreement.

E. With regards to Counts II and III of Complaint - No. 12-10032-1and Counts I and III of Complaint No. - 14-0032-1, the same shall be dismissed.

F. Respondent will pay the costs and expenses incurred in the investigation and prosecution of the above-referenced matters within 30 days of the Board's acceptance, adoption and approval of this Agreement (i.e., Complaint - No. 12-10032-1 and Complaint – No. 14-10032-1), the current amounts being $4,567.42 for Complaint - No. 12-10032-1 and $4,360.36 for Complaint – No. 14-10032-1, not including any costs that may be necessary to finalize this Agreement.

G. Respondent shall be issued a public letter of reprimand.

H. Respondent shall take six hours of continuing medical education (CME) related to anesthesiology within 12 months from the date of the Board's acceptance, adoption and approval of this Agreement. The aforementioned hours of CME shall be in addition to any CME requirements that are regularly imposed upon Respondent as a condition of licensure in the state of Nevada and shall be approved by the Board prior to their completion.

I. This Agreement shall be reported to the appropriate entities and parties as required by law, including, but not limited to, the National Practitioner Data Bank.

6. <u>Release From Liability</u>. In execution of this Agreement, Respondent understands and agrees that the state of Nevada, the Board, and each of its members, staff, counsel, investigators, experts, peer reviewers, committees, panels, hearing officers, consultants, and agents are immune from civil liability for any decision or action taken in good faith in response to information acquired by the Board. NRS 630.364(2). Respondent agrees to release the state of Nevada, the Board, and each of its members, staff, counsel, investigators, experts, peer reviewers, committees, panels, hearing officers, consultants, and agents from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims and demands whatsoever, known and unknown, in law or equity, that Respondent ever had, now has, may have or claim to have, against

any or all of the persons, government agencies, or entities named in this paragraph arising out of, or by reason of, this investigation, this Agreement, or the administration of the cases referenced herein.

7. **Procedure for Adoption of Agreement**. The IC and counsel for the IC shall recommend approval and adoption of the terms and conditions of this Agreement by the Board in resolution of Complaint - No. 12-10032-1and Complaint – No. 14-10032-1. In the course of seeking Board acceptance, approval, and adoption of this Agreement, counsel for the IC may communicate directly with the Board staff and the adjudicating members of the Board.

Respondent acknowledges that such contacts and communication may be made or conducted ex parte, without notice or opportunity to be heard on her part until the public Board meeting where this Agreement is discussed, and that such contacts and communications may include, but not be limited to, matters concerning this Agreement, the Complaint, and any and all information of every nature whatsoever related to this matter. The IC and its counsel agree that Respondent may appear at the Board meeting where this Agreement is discussed and, if requested, respond to any questions that may be addressed to the IC or the IC's counsel.

8. **Effect of Acceptance of Agreement by Board**. In the event the Board accepts, approves, and adopts this Agreement, the Board shall issue a final order, making this Agreement an order of the Board.

9. **Effect of Rejection of Agreement by Board**. In the event the Board does not accept, approve, and adopt this Agreement, this Agreement shall be null, void, and of no force and effect except as to the following agreement regarding adjudications: (1) Respondent agrees that, notwithstanding rejection of this Agreement by the Board, nothing contained in this Agreement and nothing that occurs pursuant to efforts of the IC to seek the Board's acceptance of this Agreement shall disqualify any member of the adjudicating panel of the Board from considering Complaint - No. 12-10032-1and Complaint - No. 14-10032-1and from participating in disciplinary proceedings against Respondent, including adjudication of the cases; and (2) Respondent further agrees that she shall not seek to disqualify any such member absent evidence of bad faith.

10. **Binding Effect**. If approved by the Board, Respondent understands that this

Agreement is a binding and enforceable contract upon Respondent and the Board.

11. Forum Selection Clause. The parties agrees that in the event either party is required to seek enforcement of this Agreement in district court, the parties consent to such jurisdiction and agree that exclusive jurisdiction shall be either the Second Judicial District Court, state of Nevada, Washoe County.

12. Attorneys' Fees and Costs. The parties agree that in the event an action is commenced in district court to enforce any provision of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

13. Failure to Comply with Terms. Should Respondent fail to comply with any term or condition of this Agreement once the Agreement has been accepted, approved, and adopted by the Board, the IC shall be authorized to immediately suspend Respondent's license to practice medicine in Nevada pending an Order To Show Cause Hearing, which will be duly noticed. Failure to comply with the terms of this Agreement, including failure to pay any fines, costs, expenses, or fees owed to the Board, is a failure to comply with an order of the Board, which may result in additional disciplinary action being taken against Respondent. NRS 630.3065(2)(a). Further, Respondent's failure to remit payment to the Board for monies agreed to be paid as a condition of this Agreement may subject Respondent to civil collection efforts.

Dated this 8 day of March, 2016.

By: _____
Robert Kilroy, Esq.
Attorney for the Investigative Committee

Dated this 8 day of Mar, 2016.

By: _____
John A. Hunt, Esq.
Attorney for Respondent

UNDERSTOOD AND AGREED:

_____
MARYANNE D. PHILLIPS, M.D., Respondent
Dated this 8 day of Mar, 2016.

IT IS HEREBY ORDERED that the foregoing Settlement Agreement is approved and accepted by the Nevada State Board of Medical Examiners on the 9th day of September 2016, with the final total amount of costs due of $8,927.78.

Michael J. Eischer, M.D., President
NEVADA STATE BOARD OF MEDICAL EXAMINERS

EXHIBIT

1

EXHIBIT

1

acetaminophen	heparin	nitroprusside 50 mg injection
ademosine	heparin sodium	norepinephrine
Adenosine 3 mg/ml 2 ml vial	hetastach 6% 500 ml drip	ocular lubricant
albuterol	hydralazine	ondansetron
albuterol hfa	hydralazine hcl	opthalmic lubricant
alfentanil	hydrocortisone 100mg/2mL	peinephrine PFS
alfentanyl	hydrocortisone 250mg/2mL	phenylephrine 100mcg/1mL
aminocaproic acid	hydrocortisone pf	phenylephrine 10mcg/1mL
amiodarone	hydromorphone	phenylephrine hcl
atracurium	iopamidol	physostigmine
atropine	ketamine	promethazine hcl
atropine sulfate	ketorolac	propofol 10mg/1mL
benzocaine/tetracaine topical	ketorolac tromethamine	propofol 200mg/20mL
bivalirudin	labetalol 5 mg/ml 4ml syringe	propofol/benzyl
bupivacaine 0.25% epi 1:200K	lidocaine 1% epi 1:100,000	propranolol
buplvacaine	lidocaine 1% MPF	protamine 10mg/1mL
calcium chloride	lidocaine 1% pf	protamine 50mg/5mL
calcium chloride 10%	lidocaine 2%	protamine sulfate
cefazolin	lidocaine 2% 100mg/5mL	rocuronium
cefazolin sodium	lidocaine 2% 20 mg/ml 5ml sdv	sodium bicarbonate
cefoxitin	lidocaine 2% 5 ml jelly	sodium chloride
dexamethasone 10mg/1mL	lidocaine 2% MPF	sodium chloride 10%
dexamethasone 4mg/1mL	lidocaine 2% topical	sterile water
dexamethasone na phosphate	lidocaine 5% topical	succinylcholine
dextrose	lidocaine hcl 2%	succinylcholine chloride
dextrose 50% 50 ml syringe	lta kit 4% 4 ml top soln	sufentanil
digoxin	meperidine	sufentanil citrate
diltiazem	methpredinsolone sodium succ	triamcinolone
diphenhydramine	methyiprednisole sod succ	vasopressin
diphenhydramine hcl	methylprednisolone NA succ	vecuronium
dobutamine	metoclopramide	verapamil
doxapram	metoprolol	water for injection, fliptop
edrophonium/atropine	midazolam	
ephedrine 50mg/1mL	midazolam 2 mg/2mL	
ephedrine 5mg/1mL	midazolam 5mg/5mL	
ephedrine sulfate	milrinone 20mg/100mL	
epinephrine	milrinone 20mg/20mL	
epinephrine 10 ml bristojet	milrinone lactate iv	
esmolol	morphine	
esmolol hcl	morphine 10mg/1mL	
etomidate	morphine PF 10mg/10mL	
famotidine	naloxone	
fentanyl	naloxone 0.4 mg/1 ml inj.	
flumazenil	neostigmine	
furosemide	neostigmine 10 mg/10 ml vial	
gentamycin sulfate	nitroglycerin	
glycopyrrolate	nitroglycerin 2% ud	

EXHIBIT 101

EXHIBIT 101

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of the License of	)	**Case Nos.: 12-10032-1 and 14-10032-1**
MARYANNE PHILLIPS, M.D.,	)	FILED
Licensee.	)	DEC 08 2017
	)	NEVADA STATE BOARD OF MEDICAL EXAMINERS By:

ORDER MODIFYING PREVIOUSLY APPROVED SETTLEMENT AGREEMENT

Maryanne Phillips, M.D. (Dr. Phillips), License No. 7635, personally appeared in Las Vegas, Nevada before the Nevada State Board of Medical Examiners (Board) at its regularly scheduled meeting on December 1, 2017, requesting termination of the probationary terms on her license to practice medicine in the state of Nevada as set forth in the Settlement Agreement, which was approved by the Board on September 9, 2016. After considering the request and speaking with Dr. Phillips, the Board enters the following order:

IT IS HEREBY ORDERED that the probationary status attached to Dr. Phillips' license to practice medicine in the state of Nevada is hereby removed, and her license is restored to active status with all remaining conditions and restrictions associated with the September 9, 2016 Settlement Agreement still in full force and effect. The terms of Paragraph 5(A) of the September 9, 2016 Settlement Agreement are incorporated herein by reference as conditions upon her license for 36 months from September 9, 2016. The Settlement Agreement is attached hereto as Exhibit A.

Dated this 7th day of December 2017.

NEVADA STATE BOARD OF MEDICAL EXAMINERS

D Prabhu Rachakonda M.D.

Rachakonda D. Prabhu, M.D., President
Nevada State Board of Medical Examiners

EXHIBIT A

EXHIBIT A

LV194756

ORIGINAL

BEFORE THE BOARD OF MEDICAL EXAMINERS

OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against MARYANNE D. PHILLIPS, M.D., Respondent.	Case Nos.: 12-10032-1 & 14-10032-1

FILED

SEP 09 2016

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

SETTLEMENT AGREEMENT

The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board) and Maryanne D. Phillips, M.D. (Respondent), a licensed physician in Nevada, represented by John A. Hunt, Esq. of the law firm Morris Polich & Purdy, LLP, hereby enter into this Settlement Agreement (Agreement) based on the following:[1]

A. Background

1. Respondent is a physician licensed by the Board, pursuant to Chapter 630 of the Nevada Revised Statutes (NRS) and Chapter 630 of the Nevada Administrative Code (NAC) (collectively, the Medical Practice Act), to practice medicine in Nevada since 1995 (License No. 7635).

2. On November 5, 2012, in Case No. 12-10032-1, the IC filed a formal Complaint (Complaint – No. 12-10032-1) charging Respondent with violations of the Medical Practice Act. Specifically, Complaint - No. 12-10032-1 alleges three counts. Count I alleges a violation of

[1] All agreements and admissions made by Respondent are solely for final disposition of this matter and any subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, Respondent's agreements and admissions are not intended or made for any other use, such as in the context of another state or federal government regulatory agency proceeding, state or federal civil or criminal proceeding, any state or federal court proceeding, or any credentialing or privileges matter.

NRS 630.301(3), disciplinary action taken by another state. Count II alleges a violation of NRS 630.306(11), failure to report in writing, within 30 days, any disciplinary action taken against the licensee by another state. Count III alleges a violation of NRS 630.306(2)(a), engaging in any conduct that is intended to deceive.

3. For purposes of this Agreement, Respondent and the IC further stipulate and agree that that the IC represented it was intending to amend Complaint - No. 12-10032-1to include additional counts regarding allegations that Respondent failed to report to the Board that the Medical Board of California had taken disciplinary action against Respondent and failed to report to the Board that the Nevada State Board of Pharmacy (BOP) had taken disciplinary action against Respondent. The IC also represented that it was going to amend Complaint - No. 12-10032-1to include additional counts regarding the disciplinary action taken by The Medical Board of California against Respondent and the disciplinary action taken by the BOP against Respondent. Accordingly, this Agreement addresses, resolves, and takes into consideration any and all claims/counts the Board or IC may have brought against Respondent relative to said matters, including but not necessarily limited to, any count alleging a violation of NRS 630.301(3), disciplinary action taken by another state, any count alleging a violation of NRS 630.306(11), failure to report in writing, within 30 days, any disciplinary action taken against the licensee by another state, or any count alleging a violation of NRS 630.306(2)(a), engaging in any conduct that is intended to deceive. Accordingly, Respondent and the IC agree that any and all allegations or claims regarding Respondent allegedly failing to report to the Board that the Medical Board of California and the BOP had taken disciplinary action against Respondent are hereby waived and/or released by the IC and/or the Board. Again, for ease of reference, reference to "Complaint – No. 12-10032-1" shall also include the matters addressed in this paragraph.

4. On April 22, 2014, in Case No. - 14-10032-1, the IC filed a formal Complaint (Complaint – No. 14-10032-1) charging Respondent with violations of the Medical Practice Act. Complaint - No. 14-10032-1alleges three counts. Count I alleges one violation of NRS 630.3062(1), failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient. Count II alleges one violation of NRS 630.301(4), malpractice as defined by NAC 630.040. Count III alleges one violation of NRS 630.306(2)(b), engaging in any

conduct that the Board has determined is a violation of the standards of practice established by regulation of the Board.

5. Respondent was properly served with a copy of Complaint - No. 12-10032-1and with a copy of Complaint – No. 14-10032-1, and has reviewed both Complaints, understands both Complaints, and has had the opportunity to consult with competent counsel concerning the nature and significance of the Complaints.

6. Respondent is hereby advised of her rights regarding this administrative matter, and of her opportunity to defend against the allegations in Complaint - No. 12-10032-1and in Complaint – No. 14-10032-1. Specifically, Respondent has certain rights in this administrative matter as set out by the United States Constitution, the Nevada Constitution, the Medical Practice Act, and the Nevada Administrative Procedure Act (APA), which is contained in NRS Chapter 233B. These rights include the right to a formal hearing on the allegations in Complaint - No. 12-10032-1and in Complaint – No. 14-10032-1, the right to representation by counsel, at her own expense, in the preparation and presentation of her defense, the right to confront and cross-examine the witnesses and evidence against her, the right to written findings of fact, conclusions of law, and order reflecting the final decision of the Board, and the right to judicial review of the Board's order, if the decision is adverse to her.

7. Respondent understands that, under the Board's charge to protect the public by regulating the practice of medicine, the Board may take disciplinary action against Respondent's license, including license probation, license suspension, license revocation, and imposition of administrative fines, as well as any other reasonable requirement or limitation, if the Board concludes that Respondent violated one or more provisions of the Medical Practice Act.

8. Respondent understands and agrees that this Agreement, by and between Respondent and the IC, is not with the Board, and that the IC will present this Agreement to the Board for consideration in open session at a duly noticed and scheduled meeting. Respondent understands that the IC shall advocate for the Board's approval of this Agreement, but that the Board has the right to decide in its own discretion whether or not to approve this Agreement. Respondent further understands and agrees that if the Board approves this Agreement, then the terms and conditions enumerated below shall be binding and enforceable upon her and the Board.

B. Terms & Conditions

NOW, THEREFORE, in order to resolve the matters addressed herein (i.e., the matters with regards to Complaint - No. 12-10032-1and Complaint – No. 14-10032-1), Respondent and the IC hereby agree to the following terms and conditions:

1. Jurisdiction. Respondent is, and at all times relevant to Complaint - No. 12-10032-1and Complaint - No. 14-10032-1has been, a physician licensed to practice medicine in Nevada subject to the jurisdiction of the Board as set forth in the Medical Practice Act.

2. Representation by Counsel/Knowing, Willing, and Intelligent Agreement. Respondent understands that she may retain and consult counsel prior to entering into this Agreement at her own expense. Respondent acknowledges she is represented by counsel, John A. Hunt, Esq. of the law firm Morris Polich & Purdy, LLP, and wishes to resolve the matters addressed herein with counsel. Respondent agrees that if representation by counsel in this matter materially changes prior to entering into this Agreement and for the duration of this Agreement, that counsel for the IC will be timely notified of the material change. Respondent agrees that she knowingly, willingly, and intelligently enters into this Agreement after full consultation with and upon the advice of her counsel.

3. Waiver of Rights. In connection with this Agreement, and the associated terms and conditions, Respondent knowingly, willingly, and intelligently waives all rights in connection with this administrative matter. Respondent hereby knowingly, willingly, and intelligently waives all rights arising under the United States Constitution, the Nevada Constitution, the Medical Practice Act, the APA, and any other legal rights that may be available to her or that may apply to her in connection with the administrative proceedings resulting from Complaint - No. 12-10032-1and Complaint - No. 14-10032-1filed in this matter, including defense of the Complaints, adjudication of the allegations set forth in the Complaints (in addition, as more fully addressed above, this also includes any anticipated amendments to Complaint 12-10032-1), and imposition of any disciplinary actions or sanctions ordered by the Board. Respondent agrees to settle and resolve the allegations of Complaint - No. 12-10032-1and Complaint - No. 14-10032-1as set out by this Agreement without a hearing or any further proceedings, and without the right to judicial

review.

4. Acknowledgement of Reasonable Basis to Proceed. Respondent acknowledges that the IC believes it has a reasonable basis to allege that Respondent engaged in conduct that is grounds for discipline pursuant to the Medical Practice Act. The Board acknowledges Respondent is not admitting that the Board's claims/counts as alleged in the Complaints have merit and Respondent is agreeing to resolve this matter to avoid the costs of hearing and potential subsequent litigation. Respondent asserts if this matter were to proceed to hearing, she has evidence, witnesses, expert witness(es), and defenses to the counts/claims alleged in Complaint - No. 12-10032-1and Complaint – No. 14-10032-1, but for the purposes of resolving the matter and for no other purpose, Respondent waives the presentation of evidence, witnesses, expert witnesses, and defenses in order to effectuate this Agreement.

5. Consent to Entry of Order. In order to resolve Complaint - No. 12-10032-1 and Complaint - No. 14-10032-1pending against Respondent without incurring any further costs or the expense associated with a hearing, Respondent hereby agrees that the Board may issue an order finding that Respondent engaged in conduct that is grounds for discipline pursuant to the Medical Practice Act, to wit: one count of disciplinary action taken by another state, a violation of NRS 630.301(3), as outlined in Count I of Complaint No. - 12-10032-1 and one count of malpractice, a violation of NRS 630.301(4), as outlined in Count II of Complaint - No. 14-10032-1. Accordingly, the following terms and conditions are hereby agreed upon:

A. Respondent agrees to allow her license to practice medicine in the state of Nevada to be placed on probation for a period of 36 months from the date of the Board's acceptance, adoption and approval of this Agreement (probationary period). The following terms and conditions shall apply during Respondent's probationary period:

1. During the probationary period, Respondent shall not prescribe any Class II - IV medications. If Respondent obtains a medical license coupled with the authority to prescribe Class II - IV medications in another jurisdiction, the Board will not object to Respondent prescribing Class II - IV medications in the jurisdiction in which Respondent obtained a medical license coupled with the

authority to prescribe Class II – IV medications. However, if Respondent prescribes any Class II – IV medications in another jurisdiction to any patient from Nevada, the IC shall be authorized to immediately summarily suspend Respondent's license to practice medicine in Nevada.

2. During the probationary period, Respondent shall not administer drugs to patients except those that are necessary to perform her duties as an anesthesiologist. Accordingly, Respondent shall be able to administer drugs to patients to perform her duties as an anesthesiologist. The only drugs Respondent shall be able to administer to patients to perform her duties as an anesthesiologist are outlined in Exhibit "1." The IC shall monitor Respondent's administration of said drugs through reasonable random audits of her profile with the Nevada State Board of Pharmacy's Prescription Monitoring Program and/or random audits of her patient medical charts. If Respondent administers any drugs outlined in Exhibit "1" to patients, Respondent shall be able to provide documentary proof upon request from a Board investigator that said drugs were administered solely to perform her duties as an anesthesiologist.

3. During the probationary period, Respondent agrees the Board shall have unfettered access to Respondent's medical records and agrees they may be inspected randomly and without prior notice by investigators of the Board during the probationary period, to ensure that Respondent's subsequent practice and record-keeping protocols are consistent with Nevada statutes and regulations.

4. During the probationary period, Respondent will be responsible for the costs involved in the ongoing administrative oversight relative to the probationary period and shall reimburse the Board within 30 days of a written request for reimbursement of the same.

5. During the probationary period, Respondent shall not engage, in any manner, in the practice of pain management.

6. During the probationary period, Respondent shall not be employed in any manner with a pain management clinic/practice.

7. During the probationary period, Respondent shall not have any business interest/ownership in any pain management clinic/practice.

8. During the probationary period, Respondent shall not work at any location where pain management is practiced.

9. During the probationary period, Respondent shall not supervise any physician assistants.

10. During the probationary period, Respondent shall provide the Board with the physical address of each location of employment. If an address of employment changes, Respondent shall notify the Board in writing of the new physical address within five business days of the change.

11. During the probationary period, Respondent shall comply with all laws related to the practice of allopathic medicine, whether state or federal, whether statutory or regulatory, and whether contained in NRS and NAC chapters 629, 630, 453, 454, 585 and 639.

12. Respondent shall allow Board investigators to enter each location where Respondent is practicing medicine at any time during each practice location's normal operating hours, including any room or area therein, to inspect the practice and review any or all of her patient and practice records.

B. Respondent may petition the Board before the probationary period has expired to request that the terms of this Agreement be modified or that the probationary period be terminated before the 36-month probationary period referenced above expires.

C. With regards to Complaint - No. 12-10032-1, Respondent shall pay a fine of five hundred and xx/100 dollars ($500.00) for Count I within 30 days of the Board's acceptance, adoption and approval of this Agreement.

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D. With regards to Complaint – No. 14-10032-1, Respondent shall pay a fine of five hundred and xx/100 dollars ($500.00) for Count II within 30 days of the Board's acceptance, adoption and approval of this Agreement.

E. With regards to Counts II and III of Complaint - No. 12-10032-1and Counts I and III of Complaint No. - 14-0032-1, the same shall be dismissed.

F. Respondent will pay the costs and expenses incurred in the investigation and prosecution of the above-referenced matters within 30 days of the Board's acceptance, adoption and approval of this Agreement (i.e., Complaint - No. 12-10032-1 and Complaint – No. 14-10032-1), the current amounts being $4,567.42 for Complaint - No. 12-10032-1 and $4,360.36 for Complaint – No. 14-10032-1, not including any costs that may be necessary to finalize this Agreement.

G. Respondent shall be issued a public letter of reprimand.

H. Respondent shall take six hours of continuing medical education (CME) related to anesthesiology within 12 months from the date of the Board's acceptance, adoption and approval of this Agreement. The aforementioned hours of CME shall be in addition to any CME requirements that are regularly imposed upon Respondent as a condition of licensure in the state of Nevada and shall be approved by the Board prior to their completion.

I. This Agreement shall be reported to the appropriate entities and parties as required by law, including, but not limited to, the National Practitioner Data Bank.

6. <u>Release From Liability</u>. In execution of this Agreement, Respondent understands and agrees that the state of Nevada, the Board, and each of its members, staff, counsel, investigators, experts, peer reviewers, committees, panels, hearing officers, consultants, and agents are immune from civil liability for any decision or action taken in good faith in response to information acquired by the Board. NRS 630.364(2). Respondent agrees to release the state of Nevada, the Board, and each of its members, staff, counsel, investigators, experts, peer reviewers, committees, panels, hearing officers, consultants, and agents from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims and demands whatsoever, known and unknown, in law or equity, that Respondent ever had, now has, may have or claim to have, against

any or all of the persons, government agencies, or entities named in this paragraph arising out of, or by reason of, this investigation, this Agreement, or the administration of the cases referenced herein.

7. **Procedure for Adoption of Agreement**. The IC and counsel for the IC shall recommend approval and adoption of the terms and conditions of this Agreement by the Board in resolution of Complaint - No. 12-10032-1and Complaint – No. 14-10032-1. In the course of seeking Board acceptance, approval, and adoption of this Agreement, counsel for the IC may communicate directly with the Board staff and the adjudicating members of the Board.

Respondent acknowledges that such contacts and communication may be made or conducted ex parte, without notice or opportunity to be heard on her part until the public Board meeting where this Agreement is discussed, and that such contacts and communications may include, but not be limited to, matters concerning this Agreement, the Complaint, and any and all information of every nature whatsoever related to this matter. The IC and its counsel agree that Respondent may appear at the Board meeting where this Agreement is discussed and, if requested, respond to any questions that may be addressed to the IC or the IC's counsel.

8. **Effect of Acceptance of Agreement by Board**. In the event the Board accepts, approves, and adopts this Agreement, the Board shall issue a final order, making this Agreement an order of the Board.

9. **Effect of Rejection of Agreement by Board**. In the event the Board does not accept, approve, and adopt this Agreement, this Agreement shall be null, void, and of no force and effect except as to the following agreement regarding adjudications: (1) Respondent agrees that, notwithstanding rejection of this Agreement by the Board, nothing contained in this Agreement and nothing that occurs pursuant to efforts of the IC to seek the Board's acceptance of this Agreement shall disqualify any member of the adjudicating panel of the Board from considering Complaint - No. 12-10032-1and Complaint - No. 14-10032-1and from participating in disciplinary proceedings against Respondent, including adjudication of the cases; and (2) Respondent further agrees that she shall not seek to disqualify any such member absent evidence of bad faith.

10. **Binding Effect**. If approved by the Board, Respondent understands that this

Agreement is a binding and enforceable contract upon Respondent and the Board.

11. **Forum Selection Clause**. The parties agrees that in the event either party is required to seek enforcement of this Agreement in district court, the parties consent to such jurisdiction and agree that exclusive jurisdiction shall be either the Second Judicial District Court, state of Nevada, Washoe County.

12. **Attorneys' Fees and Costs**. The parties agree that in the event an action is commenced in district court to enforce any provision of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

13. **Failure to Comply with Terms**. Should Respondent fail to comply with any term or condition of this Agreement once the Agreement has been accepted, approved, and adopted by the Board, the IC shall be authorized to immediately suspend Respondent's license to practice medicine in Nevada pending an Order To Show Cause Hearing, which will be duly noticed. Failure to comply with the terms of this Agreement, including failure to pay any fines, costs, expenses, or fees owed to the Board, is a failure to comply with an order of the Board, which may result in additional disciplinary action being taken against Respondent. NRS 630.3065(2)(a). Further, Respondent's failure to remit payment to the Board for monies agreed to be paid as a condition of this Agreement may subject Respondent to civil collection efforts.

Dated this 8 day of March, 2016.

By: _____
Robert Kilroy, Esq.
Attorney for the Investigative Committee

Dated this 8 day of March, 2016.

By: _____
John A. Hunt, Esq.
Attorney for Respondent

UNDERSTOOD AND AGREED:

_____
MARYANNE D. PHILLIPS, M.D., Respondent
Dated this 8 day of March, 2016.

IT IS HEREBY ORDERED that the foregoing Settlement Agreement is approved and accepted by the Nevada State Board of Medical Examiners on the 9th day of September 2016, with the final total amount of costs due of $8,927.78.

Michael J. Fischer, M.D., President
NEVADA STATE BOARD OF MEDICAL EXAMINERS

EXHIBIT

1

EXHIBIT

1

acetaminophen	heparin	nitroprusside 50 mg injection
ademosine	heparin sodium	norepinephrine
Adenosine 3 mg/ml 2 ml vial	hetastach 6% 500 ml drip	ocular lubricant
albuterol	hydralazine	ondansetron
albuterol hfa	hydralazine hcl	opthalmic lubricant
alfentanil	hydrocortisone 100mg/2mL	peinephrine PFS
alfentanyl	hydrocortisone 250mg/2mL	phenylephrine 100mcg/1mL
aminocaproic acid	hydrocortisone pf	phenylephrine 10mcg/1mL
amiodarone	hydromorphone	phenylephrine hcl
atracurium	iopamidol	physostigmine
atropine	ketamine	promethazine hcl
atropine sulfate	ketorolac	propofol 10mg/1mL
benzocaine/tetracaine topical	ketorolac tromethamine	propofol 200mg/20mL
bivalirudin	labetalol 5 mg/ml 4ml syringe	propofol/benzyl
bupivacaine 0.25% epi 1:200K	lidocaine 1% epi 1:100,000	propranolol
buplvacaine	lidocaine 1% MPF	protamine 10mg/1mL
calcium chloride	lidocaine 1% pf	protamine 50mg/5mL
calcium chloride 10%	lidocaine 2%	protamine sulfate
cefazolin	lidocaine 2% 100mg/5mL	rocuronium
cefazolin sodium	lidocaine 2% 20 mg/ml 5ml sdv	sodium bicarbonate
cefoxitin	lidocaine 2% 5 ml jelly	sodium chloride
dexamethasone 10mg/1mL	lidocaine 2% MPF	sodium chloride 10%
dexamethasone 4mg/1mL	lidocaine 2% topical	sterile water
dexamethasone na phosphate	lidocaine 5% topical	succinylcholine
dextrose	lidocaine hcl 2%	succinylcholine chloride
dextrose 50% 50 ml syringe	lta kit 4% 4 ml top soln	sufentanil
digoxin	meperidine	sufentanil citrate
diltiazem	methpredinsolone sodium succ	triamcinolone
diphenhydramine	methyiprednisole sod succ	vasopressin
diphenhydramine hcl	methylprednisolone NA succ	vecuronium
dobutamine	metoclopramide	verapamil
doxapram	metoprolol	water for injection, fliptop
edrophonium/atropine	midazolam	
ephedrine 50mg/1mL	midazolam 2 mg/2mL	
ephedrine 5mg/1mL	midazolam 5mg/5mL	
ephedrine sulfate	milrinone 20mg/100mL	
epinephrine	milrinone 20mg/20mL	
epinephrine 10 ml bristojet	milrinone lactate iv	
esmolol	morphine	
esmolol hcl	morphine 10mg/1mL	
etomidate	morphine PF 10mg/10mL	
famotidine	naloxone	
fentanyl	naloxone 0.4 mg/1 ml inj.	
flumazenil	neostigmine	
furosemide	neostigmine 10 mg/10 ml vial	
gentamycin sulfate	nitroglycerin	
glycopyrrolate	nitroglycerin 2% ud	

EXHIBIT 102

EXHIBIT 102

MEDICAL RECORDS

This exhibit contains personal medical information, records of a patient or other personal identifying information that is confidential and otherwise protected from disclosure to the public pursuant to NRS 622.310.

EXHIBIT 103

EXHIBIT 103

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: TAMMY LYNN HANKINS, PA-C, Respondent.	Case No. 21-51633-1

FILED
JUL 20 2021
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By: CW

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

FIRST AMENDED COMPLAINT

The Investigative Committee[1] (IC) of the Nevada State Board of Medical Examiners (Board), by and through Aaron Bart Fricke, J.D., General Counsel and attorney for the IC, having a reasonable basis to believe that Tammy Lynn Hankins, PA-C, (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 First Amended Complaint, stating the IC's charges and allegations as follows:

I. RESPONDENT'S HISTORY OF CRIMINAL AND UNPROFESSIONAL CONDUCT

1. On or about March 1, 2012, in the Superior Court of the State of Arizona, in and for the County of Mohave (Arizona Court), in Case No. CR-2012-00287, a Grand Jury indicted Respondent on five (5) criminal counts of violations of Arizona law, including COUNT 1: FRAUDULENT SCHEMES AND ARTIFICES, CLASS 2 FELONY; COUNT 2: OBTAIN OR PROCURE THE ADMINISTRATION OF A NARCOTIC DRUG BY FRAUD, CLASS 3 FELONY; COUNT 3: OBTAINING A DANGEROUS DRUG BY FRAUD, CLASS 3 FELONY; COUNT 4: ATTEMPTED OBTAINING A DANGEROUS DRUG BY FRAUD, CLASS 4 FELONY; COUNT 5: ATTEMPTED OBTAINING A DANGEROUS DRUG BY FRAUD, CLASS 4 FELONY.

[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 Victor M. Muro, M.D., Chair, Ms. April Mastroluca and Weldon Havins, M.D., J.D.

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Arizona Case History

2. On or about November 28, 2012, the Arizona Regulatory Board of Physician Assistants ("Arizona Board"), in Case No. PA-11-0127A, found Respondent, who had been the holder of a license to practice medicine as a physician assistant in the State of Arizona (License No. 2228), guilty of unprofessional conduct. Specifically, the Arizona Board had received information from a pharmacist alleging that Respondent had been recklessly writing prescriptions without supervision, writing abnormally large quantities of controlled drugs, and writing outside her scope of practice. Further, Respondent's supervising physician (SP) had terminated the supervision relationship with Respondent on September 13, 2011, yet Respondent proceeded to perform healthcare tasks without an SP's direction or supervision from September 13, 2011, through October 25, 2011, according to the date of the last prescribed controlled substance on the Pharmacy Monitoring Profile (which is a similar database in the State of Arizona to the Nevada Prescription Monitoring Program). On October 26, 2011, Respondent wrote two (2) prescriptions for controlled substances on a prescription pad that contained her SP's, name and DEA number. The prescriptions were issued after the SP terminated his supervisory relationship with Respondent. Arizona Board staff determined that the prescription pads did not contain Respondent's current SP information. In addition, Respondent failed to timely appear for an investigational interview with Arizona Board staff to address the quality of care issues in this case on four (4) occasions. Arizona Board staff found that Respondent failed to cooperate with the Arizona Board's investigation. A Medical Consultant (MC) reviewed the medical records of certain patients treated by Respondent to determine the quality of care provided by Respondent.

Patient JC

3. Respondent treated Patient JC for weight loss and removal of skin lesions, and Respondent started the patient on Levoxyl and Prozac. Patient JC continued to be seen by Respondent for chronic pain, and received prescriptions for Phentermine, Vicodin, Valium, Xanax and Oxycodone during the course of treatment with Respondent. Patient JC's prescriptions were reportedly stolen in March 2011. Patient JC later underwent Fraxel treatment along with Mesotherapy that reportedly required continuation of her pain medications. By October 2011,

Patient JC had not established herself with a pain specialist and again claimed that her prescriptions were stolen.

Patient MW

4. Another patient, Patient MW, received medical care in Respondent's office for a Fraxel treatment on August 23, 2011. There is no record of prescriptions written for this patient in the chart provided. Lastly, a police report made by Respondent's former SP alleged that Respondent had written thirty-nine (39) prescriptions for Patient MW between June and September of 2011, including Oxycodone, Hydrocodone, Valium, Phentermine, Xanax, and Endocet. In particular, Respondent wrote a prescription for Oxycodone 5 mg, 100 ct., and Diazepam 10 mg, 100 ct., with five refills on June 20, 2011. The record of all pharmacy prescriptions written by Respondent from November 2010 to November 2011 includes over 900 prescriptions, approximately 99% of which written by Respondent during this time period were for Phentermine, Diazepam, Alprazolam,. Hydrocodone, Oxycodone, Endocet and Carisoprodol. Of particular concern to the care of Patient MW were prescriptions for Hydrocodone-acetaminophen 7.5-750 mg, 100 ct., with five (5) refills, and prescriptions for Oxycodone-acetaminophen 10-325 mg, 100 ct., Alprazolam 1 mg, 90 ct., with two (2) refills, and Meperidine 50 mg., 40 ct., on January 18, 2011.

Arizona Board Discipline

5. The Arizona Board determined that the standard of care when prescribing medications for patients requires documentation of the medications prescribed, indications for use and monitoring of the amounts being prescribed and noted in the medical record. The Arizona Board determined that Respondent deviated from the standard of care by inappropriately prescribing medications for patients, and that the excess prescribing of these medications can lead to addiction or overdose with a possible fatal outcome.

6. For the foregoing misconduct, the Arizona Board found Respondent guilty of unprofessional conduct pursuant to Arizona Revised Statute (ARS) §32-2501(18)(i) ("prescribing or dispensing controlled substances or prescription-only drugs for which the physician assistant is not approved or in excess of the amount authorized pursuant to this chapter"); ARS §32-2501(18)(j) ("any conduct or practice that is or might be harmful or dangerous to ·the health of a patient or the

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public"); ARS § 32-2501 (18)(p) ("failing or refusing to maintain adequate records on a patient"), and ARS § 32-2501(18)(z) ("failing to furnish legally requested information to the [Arizona Board] or its Investigator in a timely manner."). The Arizona Board also found that a practice restriction was needed in order to protect the public, and ordered that Respondent be issued a Letter of Reprimand, placed on probation for one (1) year with additional conditions and restrictions.

Respondent's Arizona License Renewal

7. Respondent's license to practice medicine as a physician assistant in the State of Arizona (License No. 2228) was due for renewal by June 1, 2013; Respondent did not renew, and her Arizona license expired by operation of law on May 20, 2014.

Criminal Conduct by Respondent in Arizona

8. On or about September 14, 2013, the Arizona Court found that Respondent had knowingly, intelligently and voluntarily pled guilty to the offense of: COUNT 3: OBTAINING A DANGEROUS DRUG BY FRAUD, CLASS 3 FELONY. On or about October 2, 2013, the Arizona Court entered its judgment finding Respondent guilty of the foregoing charge, and sentenced Respondent to a suspended imposition of sentence and placing the Defendant on probation for a period of four years commencing October 2, 2013, among other conditions of probation.

9. On or about January 17, 2014, pursuant to a Petition to Revoke Probation, the Arizona Court ordered that Respondent be held without bond pending hearing on said petition.

10. On or about August 11, 2014, the Arizona Court found Respondent guilty of violating her probation for the following crimes: OBTAINING A DANGEROUS DRUG BY FRAUD, CLASS 3 FELONY, and SEXUAL CONDUCT WITH A MINOR, CLASS 6 FELONY. For the first crime, Respondent was sentenced to two and one-half years with the Arizona Department of Corrections, as a minimum sentence, to date from August 11, 2014, and was given credit for two hundred eight (208) days served prior to sentencing. For the second crime, Respondent as sentenced to one (1) additional year of incarceration, that sentence to run consecutive to the other.

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Respondent's Application for a Physician Assistant License in the State of Nevada

11. On or about September 24, 2019, Respondent applied to the Board for a license to practice medicine as a physician assistant in the State of Nevada. On March 6, 2020, the Board met for its regularly scheduled public meeting, and considered Respondent's application in open session, at which time, Respondent informed the Board that she had not practiced clinical medicine since she had been incarcerated, and stated that, though she had secured a job at a medical spa, and planned in the future to perform plastic surgery injections, in-office procedures, excisions, and assisting with different procedures, nevertheless, she had not done so yet and the aforementioned job offer was contingent upon her obtaining a license in Nevada. At the meeting, individual Board members expressed concerns regarding her history of criminal and unprofessional conduct, and concerns about the fact that Respondent had not practiced clinical medicine since her incarceration. Nevertheless, considering that Respondent had recently recertified as a physician assistant with National Commission on Certification of Physician Assistants, which demonstrated to some extent her current clinical competency, the Board approved her application and granted her a license to practice medicine.

12. The Board issued to Respondent an active license to practice medicine as a physician assistant in the State of Nevada (License No. PA2277) on March 6, 2020.

13. Respondent was not licensed to practice medicine as a physician assistant in the State of Nevada before March 6, 2020.

14. Respondent does not hold an active Drug Enforcement Agency (DEA) registration, and has not held a valid registration since 2016. Respondent also does not hold and has never held an active license or registration with the Nevada State Board of Pharmacy (NSBOP).

II. STATEMENT OF LAW

15. Pursuant to NRS 630.020(1)-(4), the "Practice of medicine" means:

> 1. To diagnose, treat, correct, prevent or prescribe for any human disease, ailment, injury, infirmity, deformity or other condition, physical or mental, by any means or instrumentality, including, but not limited to, the performance of an autopsy.
>
> 2. To apply principles or techniques of medical science in the diagnosis or the prevention of any such conditions.

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3. To perform any of the acts described in subsections 1 and 2 by using equipment that transfers information concerning the medical condition of the patient electronically, telephonically or by fiber optics, including, without limitation, through telehealth, from within or outside this State or the United States.

4. To offer, undertake, attempt to do or hold oneself out as able to do any of the acts described in subsections 1 and 2.

16. NRS 630.400(1)(d) provides that it is unlawful to practice medicine without being licensed under NRS Chapter 630.

17. Pursuant to NRS 630.400(2) and NRS 193.130(c) and (d), the unlawful practice of medicine is a felony, punishable by imprisonment in the state prison for a minimum term of not less than one (1) year and a maximum term of not more than five (5) years.

18. NAC 630.380(1)(m) provides that violating any provision of NRS 630.301 to 630.3065, is grounds for initiating disciplinary action against a physician assistant.

19. NAC 630.380(1)(f) provides that malpractice in the performance of medical services is grounds for initiating disciplinary action against a physician assistant.

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

21. Pursuant to NAC 630.375(2) a physician assistant shall not perform medical services without supervision from his or her supervising physician, except in life-threatening and emergency situations.

22. Pursuant to NAC 630.370, a supervising physician is responsible for all the medical activities of his or her physician assistant and shall ensure, among other obligations, that the physician assistant performs only those medical services which have been approved by his or her supervising physician, there is strict compliance with the regulations of the State Board of Pharmacy regarding controlled substances, poisons, dangerous drugs or devices, and that the supervising physician is available at all times that his or her physician assistant is performing medical services to consult with his or her assistant.

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23. Pursuant to NAC 630.380(1)(a), willfully and intentionally making a false or fraudulent statement in applying for a license is grounds for initiating disciplinary action against a physician assistant.

24. Pursuant to NAC 630.380(1)(c), performing medical services otherwise than in a life-threatening or emergency situation, and at the direction or under the supervision of the supervising physician of the physician assistant is grounds for initiating disciplinary action against a physician assistant.

25. Pursuant to NRS 630.3065(2)(c), knowingly or willfully failing to comply with or provision of NRS Chapter 630 is grounds for initiating disciplinary action against a physician.

26. 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."

27. Pursuant to 21 Code of Federal Regulations (CFR) §1306.04(a)-(b) and NRS 453.381, a physician or physician assistant may prescribe or administer controlled substances only for a legitimate medical purpose and in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, and a prescription may not be issued in order for an individual practitioner to obtain controlled substances for supplying the individual practitioner for the purpose of general dispensing to patients. 21 CFR §1306.04(a)-(b).

28. Pursuant to NRS 630.3062(1)(h), fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, administering or dispensing of a controlled substance listed in schedule II, III or IV is grounds for initiating disciplinary action or denying licensure.

29. Pursuant to NRS 449.442(1)-(2), an office of a physician or a facility that provides health care, other than a medical facility (as specifically defined in NRS 449.0151), must obtain a permit pursuant to NRS 449.443 from the Nevada State Board of Health, and must maintain current accreditation by a nationally recognized organization approved by the Nevada State Board of Health, before offering to a patient a service of general anesthesia, conscious sedation or deep sedation.

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30. Pursuant to NRS 630.306(1)(o), failure to comply with the requirements of NRS 630.373 is grounds for initiating discipline or denying licensure.

31. Pursuant to NRS 630.373(1), a physician shall not administer or supervise directly the administration of general anesthesia, conscious sedation or deep sedation to patients unless the general anesthesia, conscious sedation or deep sedation is administered: (a) in an office of a physician or osteopathic physician which holds a permit pursuant to NRS 449.435 to 449.448, inclusive; (b) in a facility which holds a permit pursuant to NRS 449.435 to 449.448, inclusive; (c) in a medical facility as that term is defined in NRS 449.0151; or (d) outside of the State of Nevada.

32. For the purposes of NRS 630.373, "conscious sedation" means a minimally depressed level of consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, in which the patient retains the ability independently and continuously to maintain an airway and to respond appropriately to physical stimulation and verbal commands. NRS 449.436.

33. Pursuant to NRS 453.021, "administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by: (1) a practitioner or, in the practitioner's presence, by the practitioner's authorized agent; or (2) the patient or research subject at the direction and in the presence of the practitioner.

34. Pursuant to NRS 454.217, a person shall not inject a neuromodulator that is derived from Clostridium botulinum or is biosimilar to or the bioequivalent of such a neuromodulator unless (1) the person is a physician or physician assistant licensed pursuant to NRS Chapter 630, a qualified dentist licensed pursuant to NRS 631.391, a registered nurse or advanced practice registered nurse, a physician or physician assistant licensed pursuant to NRS Chapter 633, or a qualified podiatric physician to NRS 635.086, (2) it is within his or her scope of practice, and (3) the injection occurs at a location that is either a medical facility, as defined in NRS 449.0151, or at the office of a physician or physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, advanced practice registered nurse or podiatric physician.

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35. A person who violates any portion of NRS 454.217 is guilty of a misdemeanor. NRS 454.356

36. Pursuant to NRS 629.086, a person shall not inject dermal or soft tissue fillers unless (1) the person is a physician or physician assistant licensed pursuant to NRS Chapter 630, a qualified dentist licensed pursuant to NRS 631.391, a registered nurse or advanced practice registered nurse, a physician or physician assistant licensed pursuant to NRS Chapter 633, or a qualified podiatric physician to NRS 635.086, (2) it is within his or her scope of practice, and (3) the injection occurs at a location that is either a medical facility, as defined in NRS 449.0151, or at the office of a physician or physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, advanced practice registered nurse or podiatric physician.

37. A person who violates any portion of NRS 629.086 is guilty of a misdemeanor. NRS 629.086(3).

38. Pursuant to NRS 630.306(1)(u), the failure to comply with the provisions of NRS 454.217 or 629.086 is grounds for initiating disciplinary action against a physician.

39. NAC 630.301(9) provides that engaging in conduct that brings the medical profession into disrepute is grounds for initiating disciplinary action against a physician assistant.

III. RESPONDENT'S UNLICENSED PRACTICE OF MEDICINE AT VIDA SPA, MALPRACTICE, DISREPUTABLE CONDUCT AND RELATED VIOLATIONS OF THE NEVADA MEDICAL PRACTICE ACT.

40. Vida Spa LLC, a Nevada Limited Liability Company, formed July 22, 2016, managed by Gisselle Platfoot ("Vida Spa"), and also doing business as "Vida Spa" and "Vita Medical Spa Las Vegas," is a self-described "medical spa" located at 3225 S Rainbow Blvd #107 and/or #206, Las Vegas, NV 89146.

41. Vida Spa LLC, is licensed in Clark County, Nevada, under Clark County Business License No. 2003447.081-172, under the business category of "Cosmetology Establishment - Other Services." The owners listed under this license are Art Matrix, Inc. and Gisselle Platfoot.

42. Gisselle Platfoot, manager of Vida Spa LLC, at all times relevant to this complaint, did not hold a license to practice any healing art as a "provider of health care," as defined in NRS 629.031, from any occupational licensing board in the State of Nevada.

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43. Vida Spa is "a facility that provides health care, other than a medical facility" (NRS 449.442). Neither Respondent, Vida Spa, nor Gisselle Platfoot held, or currently holds, the requisite permit, pursuant to NRS 449.442, to perform general anesthesia, conscious sedation or deep sedation. Additionally neither Respondent, Vida Spa, nor Gisselle Platfoot held a current accreditation by a nationally recognized organization approved by the Nevada State Board of Health.

44. At all times relevant to this Complaint, Vida Spa was not a "medical facility," as defined in NRS 449.0151, and not "the office" of a physician or physician assistant licensed pursuant to NRS chapter 630 or 633, qualified dentist, advanced practice registered nurse or podiatric physician, as provided in NRS 454.217.

45. On March 24, 2021, the NSBOP issued a Citation and Order to Cease and Desist (Platfoot Citation) to Vida Spa LLC and Gisselle Platfoot, whereby the NSBOP determined that Vida Spa LLC and Gisselle Platfoot were possessing, administering, prescribing and/or dispensing controlled substances and/or dangerous drugs for Nevada patients from Vida Spa in violation of federal and state law. Specifically, the Platfoot Citation states that Vida Spa and Gisselle Platfoot did not have a dispensing registration and are therefore prohibited from possessing, dispensing and/or administering controlled substances and/or dangerous drugs. The Platfoot Citation finds that Vida Spa and Gisselle Platfoot violated, attempted to violate, assisted or abetted in the violation of or conspired to violate, without limitation, NRS 453.226, NRS 453.316, NRS 453.321(1)(a), NRS 453.331 (l)(c)(d)(t)&(i), NRS 453.381(1), NRS 453.40l(l)(a), NRS 639.0727, NRS 639.100(1), NRS 639.23505, NRS 639.281, NRS 639.2813, NRS 639.310, NAC 639.742, 21 U.S.C. § 822(a)(2), 21 U.S.C. § 823(f), 21 U.S.C. § 84l(a), 21 U.S.C. § 842(a), 21 U.S.C. § 846 and 21 CFR §§ 1306.03-1306.05. The Platfoot Citation orders Vida Spa LLC and Gisselle Platfoot, pursuant to NRS 639.2895(1), to immediately cease and desist possessing, administering, prescribing and/or dispensing controlled substances for Nevada patients, and also assessed an administrative fine of five thousand dollars ($5,000.00) pursuant to NRS 639.2895(3).

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A. Respondent's Treatment of Patient A Without a License

46. Patient A[2] was a fifty-seven (57) year-old female at the time of the events at issue.

47. At all times relevant to Respondent's treatment of Patient A, the so-called "medical director" of Vida Spa was Sherman Washington, Jr., M.D.

48. On October 9, 2019, Respondent, who did not have her own DEA registration and controlled substance license issued by the NSBOP, utilized the prescribing credentials of Sherman Washington, Jr., M.D., to issue fraudulent prescriptions to Patient A for Tramadol (a Schedule IV Controlled Substance) 50 mg tablets, 24 ct. for 3 days, and Diazepam (a Schedule IV Controlled Substance) 10 mg tablets, 8 ct. for 3 days; these prescriptions were called-in to the pharmacy by Respondent, or by a Vida Spa employee or agent acting at Respondent's direction, and the prescriptions were filled the same day.

49. Respondent instructed Patient A to take Schedule IV controlled substances in a manner that materially deviated from the issued prescriptions; Respondent instructed Patient A to take Tramadol 50mg, 2 tablets, and Diazepam 10 mg, 1 tablet, at 2:00 p.m., on October 10, 2019, for the purpose of conscious sedation for an invasive, surgical liposuction procedure Respondent planned to perform on Patient A at Vida Spa at 3:00 p.m. that day.

50. Respondent wrote the prescriptions for these controlled substances and instructed Patient A to deviate from the issued prescription in order to conceal the purpose of the medications, which was conscious sedation, and thereby to conceal a violation by Vida Spa of NRS 449.442(1)-(2).

51. Dr. Washington did not see or treat Patient A, did not direct or supervise Respondent in her treatment of Patient A, and did not specifically direct Respondent to issue prescriptions to Patient A.

52. On October 10, 2019, at Vida Spa, at approximately 3:00 p.m., Respondent performed a liposuction procedure on the arms of Patient A. Respondent administered tumescent anesthesia with Lidocaine and Epinephrine to Patient A, which Respondent obtained, without a

[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, along with identifying information for all other patients B through L referered to herein.

patient-specific prescription or an order from a licensed practitioner for Patient A, from a general store of controlled substances and dangerous drugs obtained and maintained by Vida Spa in violation of federal and state law.

53. Respondent was not supervised by any licensed physician while performing this invasive surgical procedure on Patient A at Vida Spa.

COUNT I

NRS 630.400(1)(d) – Unlicensed Practice of Medicine

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

55. Respondent practiced medicine without a license when she treated Patient A on October 9 and 10, 2019.

56. Respondent, having been previously disciplined by the Arizona Board and incarcerated in the State of Arizona for conduct related to her practice of medicine, having let her license to practice medicine in the State of Arizona expire while incarcerated, and as evidenced by her subsequent application to the Board for a license to practice medicine in the State of Nevada, among other evidence of scienter, Respondent's unlicensed practice of medicine in violation of NRS 630.400(1)(d) was knowing and willful.

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

COUNT II

NRS 630.301(4) - Malpractice

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

59. As demonstrated by, but not limited to, the above-outlined facts, Respondent committed malpractice when she failed to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when rendering medical services to Patient A, by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient A without first obtaining a license to practice medicine in the State of Nevada, by performing an

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invasive surgical procedure on Patient A, by administering tumescent anesthesia to Patient A utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients, by issuing fraudulent and illegal prescriptions for controlled substances to Patient A, by instructing Patient A to take controlled substances in a manner that materially deviated from the issued prescriptions in order to conceal the purpose of the medications, which was conscious sedation, and thereby to conceal an apparent violation by Vida Spa of NRS 449.442(1)-(2), and by treating Patient A without the direct supervision of a licensed physician.

60. 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)(h) – Fraudulent, Illegal, Unauthorized and Otherwise Inappropriate Prescribing of Schedule IV Controlled Substance

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

62. As demonstrated by, but not limited to, the above-outlined facts, Respondent issued fraudulent, illegal, unauthorized and otherwise inappropriate prescriptions for Schedule IV controlled substances, Tramadol and Diazepam, to Patient A by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient A without first obtaining a license to practice medicine in the State of Nevada, a DEA registration, and a controlled substance license issued by the NSBOP, by issuing fraudulent and illegal prescriptions for these controlled substances to Patient A, by instructing Patient A to take these controlled substances in a manner that materially deviated from the issued prescriptions in order to conceal the purpose of the medications, which was conscious sedation, and thereby to conceal an apparent violation by Vida Spa of NRS 449.442(1)-(2).

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

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COUNT IV

NRS 630.301(9) – Disreputable Conduct

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

65. Respondent engaged in conduct that brings the medical profession into disrepute by, among other misconduct, knowingly, willfully and feloniously practicing medicine without first obtaining a license to practice medicine in the State of Nevada, by performing an invasive surgical procedure on Patient A, by administering tumescent anesthesia to Patient A utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients, by issuing fraudulent and illegal prescriptions for Schedule IV controlled substances to Patient A, by instructing Patient A to take these controlled substances in a manner that materially deviated from the issued prescriptions in order to conceal the purpose of the medications, which was conscious sedation, and thereby to conceal an apparent violation by Vida Spa of NRS 449.442(1)-(2), and by treating Patient A without the direct supervision of a licensed physician.

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

B. Respondent's Treatment of Patient B Without a License

67. Patient B was a thirty-one (31) year-old female at the time of the events at issue.

68. At all times relevant to Respondent's treatment of Patient B, the so-called "medical director" of Vida Spa was Sherman Washington, Jr., M.D.

69. On October 7, 2019, Respondent, who did not have her own DEA registration and controlled substance license issued by the NSBOP, utilized the prescribing credentials of Sherman Washington, Jr., M.D., to issue fraudulent prescriptions to Patient B for Tramadol 50 mg tablets (a Schedule IV Controlled Substance), 20 ct. for 3 days, Promethazine 25 mg tablets, 12 ct. for 2 days, Sulfameth/Trimethprim 800/160 mg tablets, 20 ct. for 10 days; these prescriptions were called-in to the pharmacy by Respondent, or by a Vida Spa employee or agent acting at Respondent's direction, and the prescriptions were filled the same day.

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70. Dr. Washington did not see or treat Patient B, did not direct or supervise Respondent in her treatment of Patient B, and did not specifically direct Respondent to issue a prescription to Patient B.

71. On October 8, 2019, at Vida Spa, Respondent performed a liposuction procedure on the arms of Patient B. Respondent administered tumescent anesthesia with Lidocaine and Epinephrine to Patient B, which Respondent obtained, without a patient-specific prescription or an order from a licensed practitioner for Patient B, from a general store of controlled substances and dangerous drugs obtained and maintained by Vida Spa in violation of federal and state law.

72. Respondent was not supervised by any licensed physician while performing this invasive surgical procedure on Patient B at Vida Spa.

COUNT V

NRS 630.400(1)(d) – Unlicensed Practice of Medicine

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

74. Respondent practiced medicine without a license when she treated Patient B on October 7 and 8, 2019.

75. Respondent, having been previously disciplined by the Arizona Board and incarcerated in the State of Arizona for conduct related to her practice of medicine, having let her license to practice medicine in the State of Arizona expire while incarcerated, and as evidenced by her subsequent application to the Board for a license to practice medicine in the State of Nevada, among other evidence of scienter, Respondent's unlicensed practice of medicine in violation of NRS 630.400(1)(d) was knowing and willful.

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

COUNT VI

NRS 630.301(4) - Malpractice

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

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78. As demonstrated by, but not limited to, the above-outlined facts, Respondent committed malpractice when she failed to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when rendering medical services to Patient B, by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient B without first obtaining a license to practice medicine in the State of Nevada, by performing an invasive surgical procedure on Patient B, by administering tumescent anesthesia to Patient B utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients, by issuing a fraudulent and illegal prescription for a controlled substances to Patient B, and by treating Patient B without the direct supervision of a licensed physician.

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

COUNT VII

NRS 630.3062(1)(h) – Fraudulent, Illegal, Unauthorized and Otherwise Inappropriate Prescribing of Schedule IV Controlled Substance

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

81. As demonstrated by, but not limited to, the above-outlined facts, Respondent issued a fraudulent, illegal, unauthorized and otherwise inappropriate prescription for a Schedule IV controlled substances, Tramadol, to Patient B by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient B without first obtaining a license to practice medicine in the State of Nevada, a DEA registration, and a controlled substance license issued by the NSBOP, and by issuing a fraudulent and illegal prescription for a Schedule IV controlled substances to Patient B.

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

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COUNT VIII

NRS 630.301(9) – Disreputable Conduct

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

84. Respondent engaged in conduct that brings the medical profession into disrepute by, among other misconduct, knowingly, willfully and feloniously practicing medicine without first obtaining a license to practice medicine in the State of Nevada, and by performing an invasive surgical procedure on Patient B, by administering tumescent anesthesia to Patient B utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients, by issuing a fraudulent and illegal prescription for a Schedule IV controlled substances to Patient B, and by treating Patient B without the direct supervision of a licensed physician.

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

C. Respondent's Treatment of Patient C Without a License

86. Patient C was a forty-three (43) year-old female at the time of the events at issue.

87. At all times relevant to Respondent's treatment of Patient C, the so-called "medical director" of Vida Spa was Sherman Washington, Jr., M.D.

88. On October 9, 2019, Respondent, who did not have her own DEA registration and controlled substance license issued by the NSBOP, utilized the prescribing credentials of Sherman Washington, Jr., M.D., to issue fraudulent prescriptions to Patient C for Tramadol (a Schedule IV Controlled Substance) 50 mg tablets, 24 ct. for 3 days, Diazepam (a Schedule IV Controlled Substance) 10 mg tablets, 12 ct. for 4 days, Promethazine 25 mg tablets, 20 ct for 5 days, and Sulfameth/Trimethprim 800/160 mg tablets, 20 ct. for 10 days; these prescriptions were called-in to the pharmacy by Respondent, or by a Vida Spa employee or agent acting at Respondent's direction, and the prescriptions were filled the same day.

89. Respondent instructed Patient C to take the Schedule IV controlled substances in a manner that materially deviated from the issued prescriptions; Respondent instructed Patient C to

take Tramadol 50mg, 2 tablets, and Diazepam 10 mg, 1 tablet, one hour in advance an invasive, surgical liposuction procedure Respondent planned to perform on Patient C at Vida Spa on October 9, 2019, for the purpose of conscious sedation.

90. Respondent wrote the prescriptions for these controlled substances and instructed Patient C to deviate from the issued prescription in order to conceal the purpose of the medications, which was conscious sedation, and thereby to conceal an apparent violation by Vida Spa of NRS 449.442(1)-(2).

91. Dr. Washington did not see or treat Patient C, did not direct or supervise Respondent in her treatment of Patient C, and did not specifically direct Respondent to issue prescriptions to Patient C.

92. On October 9, 2019, at Vida Spa, Respondent performed a liposuction procedure on the arms of Patient C. Respondent administered tumescent anesthesia with Lidocaine and Epinephrine to Patient C, which Respondent obtained, without a patient-specific prescription or an order from a licensed practitioner for Patient C, from a general store of controlled substances and dangerous drugs obtained and maintained by Vida Spa in violation of federal and state law.

93. Respondent was not supervised by any licensed physician while performing this invasive surgical procedure on Patient C at Vida Spa.

COUNT IX

NRS 630.400(1)(d) – Unlicensed Practice of Medicine

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

95. Respondent practiced medicine without a license when she treated Patient C on October 9, 2019.

96. Respondent, having been previously disciplined by the Arizona Board and incarcerated in the State of Arizona for conduct related to her practice of medicine, having let her license to practice medicine in the State of Arizona expire while incarcerated, and as evidenced by her subsequent application to the Board for a license to practice medicine in the State of Nevada,

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among other evidence of scienter, Respondent's unlicensed practice of medicine in violation of NRS 630.400(1)(d) was knowing and willful.

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

COUNT X

NRS 630.301(4) - Malpractice

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

99. As demonstrated by, but not limited to, the above-outlined facts, Respondent committed malpractice when she failed to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when rendering medical services to Patient C, by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient C without first obtaining a license to practice medicine in the State of Nevada, by performing an invasive surgical procedure on Patient C, by administering tumescent anesthesia to Patient C utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients, by issuing fraudulent and illegal prescriptions for controlled substances to Patient C, by instructing Patient C to take controlled substances in a manner that materially deviated from the issued prescriptions in order to conceal the purpose of the medications, which was conscious sedation, and thereby to conceal an apparent violation by Vida Spa of NRS 449.442(1)-(2), and by treating Patient C without the direct supervision of a licensed physician.

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

COUNT XI

NRS 630.3062(1)(h) – Fraudulent, Illegal, Unauthorized and Otherwise Inappropriate Prescribing of Schedule IV Controlled Substance

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

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102. As demonstrated by, but not limited to, the above-outlined facts, Respondent issued fraudulent, illegal, unauthorized and otherwise inappropriate prescriptions for Schedule IV controlled substances, Tramadol and Diazepam, to Patient C by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient C without first obtaining a license to practice medicine in the State of Nevada, a DEA registration, and a controlled substance license issued by the NSBOP, by issuing fraudulent and illegal prescriptions for these controlled substances to Patient C, by instructing Patient C to take these controlled substances in a manner that materially deviated from the issued prescriptions in order to conceal the purpose of the medications, which was conscious sedation, and thereby to conceal an apparent violation by Vida Spa of NRS 449.442(1)-(2).

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

COUNT XII

NRS 630.301(9) – Disreputable Conduct

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

105. Respondent engaged in conduct that brings the medical profession into disrepute by, among other misconduct, knowingly, willfully and feloniously practicing medicine without first obtaining a license to practice medicine in the State of Nevada, by performing an invasive surgical procedure on Patient C, by administering tumescent anesthesia to Patient C utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients, by issuing fraudulent and illegal prescriptions for Schedule IV controlled substances to Patient C, by instructing Patient C to take these controlled substances in a manner that materially deviated from the issued prescriptions in order to conceal the purpose of the medications, which was conscious sedation, and thereby to conceal an apparent violation by Vida Spa of NRS 449.442(1)-(2), and by treating Patient C without the direct supervision of a licensed physician.

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

D. Respondent's Treatment of Patient D Without a License

107. Patient D was a twenty-two (22) year-old female at the time of the events at issue.

108. At all times relevant to Respondent's treatment of Patient D, the so-called "medical director" of Vida Spa was Sherman Washington, Jr., M.D.

109. On October 12, 2019, Respondent, who did not have her own DEA registration and controlled substance license issued by the NSBOP, utilized the prescribing credentials of Sherman Washington, Jr., M.D., to issue fraudulent prescriptions to Patient D for Tramadol (a Schedule IV Controlled Substance) 50 mg tablets, 24 ct. for 3 days and Diazepam (a Schedule IV Controlled Substance) 10 mg tablets, 8 ct. for 3 days; on information and belief, these prescriptions were called-in to the pharmacy by Respondent, or by a Vida Spa employee or agent acting at Respondent's direction, and the prescriptions were filled the same day.

110. On information and belief, Respondent instructed Patient D to take the Schedule IV controlled substances in a manner that materially deviated from the issued prescriptions; Respondent instructed Patient D to take Tramadol 50mg, 2 tablets, and Diazepam 10 mg, 1 tablet, one hour in advance an invasive, surgical liposuction procedure Respondent planned to perform on Patient D at Vida Spa on October 13, 2019, for the purpose of conscious sedation.

111. On information and belief, Respondent wrote the prescriptions for these controlled substances and instructed Patient D to deviate from the issued prescription in order to conceal the purpose of the medications, which was conscious sedation, and thereby to conceal an apparent violation by Vida Spa of NRS 449.442(1)-(2).

112. Dr. Washington did not see or treat Patient D, did not direct or supervise Respondent in her treatment of Patient D, and did not specifically direct Respondent to issue prescriptions to Patient D.

113. On October 13, 2019, at Vida Spa, Respondent performed a liposuction procedure on the abdomen and medial inferior upper arms of Patient D. Respondent administered tumescent anesthesia with Lidocaine and Epinephrine to Patient D, which Respondent obtained, without a

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patient-specific prescription or an order from a licensed practitioner for Patient D, from a general store of controlled substances and dangerous drugs obtained and maintained by Vida Spa in violation of federal and state law.

114. Respondent was not supervised by any licensed physician while performing this invasive surgical procedure on Patient D at Vida Spa.

COUNT XIII

NRS 630.400(1)(d) – Unlicensed Practice of Medicine

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

116. Respondent practiced medicine without a license when she treated Patient D on October 12 and 13, 2019.

117. Respondent, having been previously disciplined by the Arizona Board and incarcerated in the State of Arizona for conduct related to her practice of medicine, having let her license to practice medicine in the State of Arizona expire while incarcerated, and as evidenced by her subsequent application to the Board for a license to practice medicine in the State of Nevada, among other evidence of scienter, Respondent's unlicensed practice of medicine in violation of NRS 630.400(1)(d) was knowing and willful.

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

COUNT XIV

NRS 630.301(4) - Malpractice

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

120. As demonstrated by, but not limited to, the above-outlined facts, Respondent committed malpractice when she failed to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when rendering medical services to Patient D, by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient D without first obtaining a license to practice medicine in the State of Nevada, by performing an

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invasive surgical procedure on Patient D, by administering tumescent anesthesia to Patient D utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients, by issuing fraudulent and illegal prescriptions for controlled substances to Patient D, by instructing Patient D to take controlled substances in a manner that materially deviated from the issued prescriptions in order to conceal the purpose of the medications, which was conscious sedation, and thereby to conceal an apparent violation by Vida Spa of NRS 449.442(1)-(2), and by treating Patient D without the direct supervision of a licensed physician.

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

COUNT XV

NRS 630.3062(1)(h) – Fraudulent, Illegal, Unauthorized and Otherwise Inappropriate Prescribing of Schedule IV Controlled Substance

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

123. As demonstrated by, but not limited to, the above-outlined facts, Respondent issued fraudulent, illegal, unauthorized and otherwise inappropriate prescriptions for Schedule IV controlled substances, Tramadol and Diazepam, to Patient D by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient D without first obtaining a license to practice medicine in the State of Nevada, a DEA registration, and a controlled substance license issued by the NSBOP, by issuing fraudulent and illegal prescriptions for these controlled substances to Patient D, by instructing Patient D to take these controlled substances in a manner that materially deviated from the issued prescriptions in order to conceal the purpose of the medications, which was conscious sedation, and thereby to conceal an apparent violation by Vida Spa of NRS 449.442(1)-(2).

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

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COUNT XVI

NRS 630.301(9) – Disreputable Conduct

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

126. Respondent engaged in conduct that brings the medical profession into disrepute by, among other misconduct, knowingly, willfully and feloniously practicing medicine without first obtaining a license to practice medicine in the State of Nevada, and by performing an invasive surgical procedure on Patient D, administering tumescent anesthesia to Patient D utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients, issuing fraudulent prescriptions for controlled substances to Patient D, violating and attempting to conceal violations of NRS 449.442(1)-(2), and 21 CFR §1306.04(a)-(b) and NRS 453.381, and treating Patient D without the direct supervision of a licensed physician.

E. Respondent's Treatment of Patient E Without a License

127. Patient E was a thirty-three (33) year-old female at the time of the events at issue

128. At all times relevant to Respondent's treatment of Patient E, the so-called "medical director" of Vida Spa was Sherman Washington, Jr., M.D.

129. On October 8, 2019, Respondent, who did not have her own DEA registration and controlled substance license issued by the NSBOP, utilized the prescribing credentials of Sherman Washington, Jr., M.D., to issue a fraudulent prescription to Patient E for Tramadol (a Schedule IV Controlled Substance) 50 mg tablets, 20 ct. for 4 days, which prescription was filled the same day.

130. Dr. Washington did not see or treat Patient E, did not direct or supervise Respondent in her treatment of Patient E, and did not specifically direct Respondent to issue a prescription to Patient E.

131. On October 8, 2019, at Vida Spa, Respondent performed a liposuction procedure on the arms of Patient E. Respondent administered tumescent anesthesia with Lidocaine and Epinephrine to Patient E, which Respondent obtained, without a patient-specific prescription or an order from a licensed practitioner for Patient E, from a general store of controlled substances and

dangerous drugs obtained and maintained by Vida Spa in violation of federal and state law.

132. Respondent was not supervised by any licensed physician while performing this invasive surgical procedure on Patient E at Vida Spa.

COUNT XVII

NRS 630.400(1)(d) – Unlicensed Practice of Medicine

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

134. Respondent practiced medicine without a license when she treated Patient E on October 7 and 8, 2019.

135. Respondent, having been previously disciplined by the Arizona Board and incarcerated in the State of Arizona for conduct related to her practice of medicine, having let her license to practice medicine in the State of Arizona expire while incarcerated, and as evidenced by her subsequent application to the Board for a license to practice medicine in the State of Nevada, among other evidence of scienter, Respondent's unlicensed practice of medicine in violation of NRS 630.400(1)(d) was knowing and willful.

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

COUNT XVIII

NRS 630.301(4) - Malpractice

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

138. As demonstrated by, but not limited to, the above-outlined facts, Respondent committed malpractice when she failed to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when rendering medical services to Patient E, by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient E without first obtaining a license to practice medicine in the State of Nevada, by performing an invasive surgical procedure on Patient E, by administering tumescent anesthesia to Patient E utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous

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drugs used for general administration and dispensing to patients, by issuing a fraudulent and illegal prescription for a controlled substances to Patient E, and by treating Patient E without the direct supervision of a licensed physician.

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

COUNT XIX

NRS 630.3062(1)(h) – Fraudulent, Illegal, Unauthorized and Otherwise Inappropriate Prescribing of Schedule IV Controlled Substance

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

141. As demonstrated by, but not limited to, the above-outlined facts, Respondent issued a fraudulent, illegal, unauthorized and otherwise inappropriate prescription for a Schedule IV controlled substances, Tramadol, to Patient E by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient E without first obtaining a license to practice medicine in the State of Nevada, a DEA registration, and a controlled substance license issued by the NSBOP, and by issuing a fraudulent and illegal prescription for a Schedule IV controlled substances to Patient E.

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

COUNT XX

NRS 630.301(9) – Disreputable Conduct

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

144. Respondent engaged in conduct that brings the medical profession into disrepute by, among other misconduct, knowingly, willfully and feloniously practicing medicine without first obtaining a license to practice medicine in the State of Nevada, and by performing an invasive surgical procedure on Patient E, by administering tumescent anesthesia to Patient E utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous

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drugs used for general administration and dispensing to patients, by issuing a fraudulent and illegal prescription for a Schedule IV controlled substances to Patient E, and by treating Patient E without the direct supervision of a licensed physician.

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

F. Respondent's Treatment of Patient F Without a License

146. Patient F was a male of unknown age at the time of the events at issue.

147. At all times relevant to Respondent's treatment of Patient F, the so-called "medical director" of Vida Spa was Sherman Washington, Jr., M.D.

148. On October 24, 2019, Respondent obtained, without a patient-specific prescription or an order from a licensed practitioner for Patient F, "Botox," a neuromodulator that is derived from Clostridium botulinum or is biosimilar to or the bioequivalent of such a neuromodulator, and "Versa," a hyaluronic acid dermal filler, both of which are dangerous drugs as defined by NRS 454.201, from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients.

149. Dr. Washington did not see or treat Patient F, and did not direct or supervise Respondent in her treatment of Patient F.

150. On October 24, 2019, at Vida Spa, Respondent injected, and thereby administered pursuant to NRS 454.191, the aforementioned Botox and Versa into various locations on the face of Patient F.

151. Respondent was not supervised by any licensed physician while performing this injection procedure on Patient F at Vida Spa.

COUNT XXI

NRS 630.306(1)(u) – Illegal Injection of Botox

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

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153. As demonstrated by, but not limited to, the above-outlined facts, Respondent injected Botox into the face of Patient F in violation of NRS 629.086 when she did so without a license to practice any form of medicine pursuant to NRS Chapter 630, NRS 631.391, NRS Chapter 633, or NRS 635.086, and at a location that is neither a medical facility, as defined in NRS 449.0151, nor at the office of a physician or physician assistant, licensed pursuant to NRS Chapters 630 or 633, dentist, advanced practice registered nurse or podiatric physician.

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

COUNT XXII

NRS 630.306(1)(u) – Illegal Injection of Versa

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

156. As demonstrated by, but not limited to, the above-outlined facts, Respondent injected Versa into the face of Patient F in violation of NRS 454.217 when she did so without a license to practice any form of medicine pursuant to NRS Chapter 630, NRS 631.391, NRS Chapter 633, or NRS 635.086, and at a location that is neither a medical facility, as defined in NRS 449.0151, nor at the office of a physician or physician assistant, licensed pursuant to NRS Chapters 630 or 633, dentist, advanced practice registered nurse or podiatric physician.

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

COUNT XXIII

NRS 630.400(1)(d) – Unlicensed Practice of Medicine

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

159. Respondent practiced medicine without a license when she treated Patient F on October 24, 2019.

160. Respondent, having been previously disciplined by the Arizona Board and incarcerated in the State of Arizona for conduct related to her practice of medicine, having let her

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license to practice medicine in the State of Arizona expire while incarcerated, and as evidenced by her subsequent application to the Board for a license to practice medicine in the State of Nevada, among other evidence of scienter, Respondent's unlicensed practice of medicine in violation of NRS 630.400(1)(d) was knowing and willful.

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

COUNT XXIV

NRS 630.301(4) - Malpractice

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

163. As demonstrated by, but not limited to, the above-outlined facts, Respondent committed malpractice when she failed to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when rendering medical services to Patient F, by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient F without first obtaining a license to practice medicine in the State of Nevada, and by obtaining, without a patient-specific prescription or an order from a licensed practitioner for Patient F, dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs, and by injecting Botox and Versa into the face of Patient F in violation of NRS 629.086 and NRS 454.217, respectively, and by treating Patient F without the direct supervision of a licensed physician.

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

COUNT XXV

NRS 630.301(9) – Disreputable Conduct

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

166. Respondent engaged in conduct that brings the medical profession into disrepute by, among other misconduct, knowingly, willfully and feloniously practicing medicine with

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respect to Patient F without first obtaining a license to practice medicine in the State of Nevada, and by obtaining, without a patient-specific prescription or an order from a licensed practitioner for Patient F, dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs, and by injecting Botox and Versa into the face of Patient F in violation of NRS 629.086 and NRS 454.217, respectively, and by treating Patient F without the direct supervision of a licensed physician.

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

G. Respondent's Treatment of Patient G Without a License

168. Patient G was a sixty-six (66) year-old female at the time of the events at issue.

169. At all times relevant to Respondent's treatment of Patient G, the so-called "medical director" of Vida Spa was Sherman Washington, Jr., M.D.

170. On October 29, 2019, Respondent obtained, without a patient-specific prescription or an order from a licensed practitioner for Patient G, "Xeomin," a neuromodulator that is derived from Clostridium botulinum or is biosimilar to or the bioequivalent of such a neuromodulator, and "Versa," a hyaluronic acid dermal filler, both of which are dangerous drugs as defined by NRS 454.201, from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients.

171. Dr. Washington did not see or treat Patient G, did not direct or supervise Respondent in her treatment of Patient G.

172. On October 24, 2019, at Vida Spa, Respondent injected, and thereby administered pursuant to NRS 454.191, the aforementioned Xeomin and Versa into various locations on the face of Patient G.

173. Respondent was not supervised by any licensed physician while performing this injection procedure on Patient G at Vida Spa.

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COUNT XXVI

NRS 630.306(1)(u) – Illegal Injection of Xeomin

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

175. As demonstrated by, but not limited to, the above-outlined facts, Respondent injected Xeomin into the face of Patient G in violation of NRS 629.086 when she did so without a license to practice any form of medicine pursuant to NRS Chapter 630, NRS 631.391, NRS Chapter 633, or NRS 635.086, and at a location that is neither a medical facility, as defined in NRS 449.0151, nor at the office of a physician or physician assistant, licensed pursuant to NRS Chapters 630 or 633, dentist, advanced practice registered nurse or podiatric physician.

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

COUNT XXVII

NRS 630.306(1)(u) – Illegal Injection of Versa

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

178. As demonstrated by, but not limited to, the above-outlined facts, Respondent injected Versa into the face of Patient G in violation of NRS 454.217 when she did so without a license to practice any form of medicine pursuant to NRS Chapter 630, NRS 631.391, NRS Chapter 633, or NRS 635.086, and at a location that is neither a medical facility, as defined in NRS 449.0151, nor at the office of a physician or physician assistant, licensed pursuant to NRS Chapters 630 or 633, dentist, advanced practice registered nurse or podiatric physician.

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

COUNT XXVIII

NRS 630.400(1)(d) – Unlicensed Practice of Medicine

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

181. Respondent practiced medicine without a license when she treated Patient G on October 29, 2019.

182. Respondent, having been previously disciplined by the Arizona Board and incarcerated in the State of Arizona for conduct related to her practice of medicine, having let her license to practice medicine in the State of Arizona expire while incarcerated, and as evidenced by her subsequent application to the Board for a license to practice medicine in the State of Nevada, among other evidence of scienter, Respondent's unlicensed practice of medicine in violation of NRS 630.400(1)(d) was knowing and willful.

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

COUNT XXIX

NRS 630.301(4) - Malpractice

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

185. As demonstrated by, but not limited to, the above-outlined facts, Respondent committed malpractice when she failed to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when rendering medical services to Patient G, by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient G without first obtaining a license to practice medicine in the State of Nevada, and by obtaining, without a patient-specific prescription or an order from a licensed practitioner for Patient G, dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs, and by injecting Xeomin and Versa into the face of Patient G in violation of NRS 629.086 and NRS 454.217, respectively, and by treating Patient G without the direct supervision of a licensed physician.

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

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COUNT XXX

NRS 630.301(9) – Disreputable Conduct

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

188. Respondent engaged in conduct that brings the medical profession into disrepute by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient G without first obtaining a license to practice medicine in the State of Nevada, and by obtaining, without a patient-specific prescription or an order from a licensed practitioner for Patient G, dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs, and by injecting Xeomin and Versa into the face of Patient G in violation of NRS 629.086 and NRS 454.217, respectively, and by treating Patient G without the direct supervision of a licensed physician.

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

H. Respondent's Treatment of Patient H Without a License

190. Patient H was a forty-two (42) year-old person of unknown gender at the time of the events at issue.

191. At all times relevant to Respondent's treatment of Patient H, Vida Spa had no so-called "medical director," the directorship of Dr. Sherman Washington having terminated on November 1, 2019.

192. At all times relevant to Respondent's treatment of Patient H, the only parties responsible for Vida Spa's activities with respect to Patient H were Respondent and, on information and belief, the parties listed on Clark County Business License No. 2003447.081-172, under the business category of "Cosmetology Establishment - Other Services," the owners of Vida Spa: Art Matrix, Inc. and Gisselle Platfoot.

193. On November 5, 2019 obtained, without a patient-specific prescription or an order from a licensed practitioner for Patient H, "Versa," a hyaluronic acid dermal filler, a dangerous

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drug as defined by NRS 454.201, from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients.

194. On November 5, 2019, at Vida Spa, Respondent injected, and thereby administered pursuant to NRS 454.191, the aforementioned Versa into various locations on the face of Patient H.

195. Respondent was not supervised by any licensed physician while performing this injection procedure on Patient H at Vida Spa.

COUNT XXXI

NRS 630.306(1)(u) – Illegal Injection of Versa

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

197. As demonstrated by, but not limited to, the above-outlined facts, Respondent injected Versa into the face of Patient H in violation of NRS 454.217 when she did so without a license to practice any form of medicine pursuant to NRS Chapter 630, NRS 631.391, NRS Chapter 633, or NRS 635.086, and at a location that is neither a medical facility, as defined in NRS 449.0151, nor at the office of a physician or physician assistant, licensed pursuant to NRS Chapters 630 or 633, dentist, advanced practice registered nurse or podiatric physician.

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

COUNT XXXII

NRS 630.400(1)(d) – Unlicensed Practice of Medicine

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

200. Respondent practiced medicine without a license when she treated Patient H on November 5, 2019.

201. Respondent, having been previously disciplined by the Arizona Board and incarcerated in the State of Arizona for conduct related to her practice of medicine, having let her license to practice medicine in the State of Arizona expire while incarcerated, and as evidenced by

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her subsequent application to the Board for a license to practice medicine in the State of Nevada, among other evidence of scienter, Respondent's unlicensed practice of medicine in violation of NRS 630.400(1)(d) was knowing and willful.

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

COUNT XXXIII

NRS 630.301(4) - Malpractice

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

204. As demonstrated by, but not limited to, the above-outlined facts, Respondent committed malpractice when she failed to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when rendering medical services to Patient H, by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient H without first obtaining a license to practice medicine in the State of Nevada, and by obtaining, without a patient-specific prescription or an order from a licensed practitioner for Patient H, dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs, and by injecting Versa into the face of Patient H in violation of NRS 454.217, and by treating Patient H without the direct supervision of a licensed physician.

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

COUNT XXXIV

NRS 630.301(9) – Disreputable Conduct

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

207. Respondent engaged in conduct that brings the medical profession into disrepute by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient H, by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient H without first obtaining a license to practice medicine in the

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State of Nevada, and by obtaining, without a patient-specific prescription or an order from a licensed practitioner for Patient H, dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs, and by injecting Versa into the face of Patient H in violation of NRS 454.217, and by treating Patient H without the direct supervision of a licensed physician.

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

IV. RESPONDENT'S FRAUD IN OBTAINING LICENSURE

COUNT XXXV

NRS 630.304(1) – Fraud and Misrepresentation in Obtaining a License

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

210. As demonstrated by, but not limited to, the above-outlined facts, Respondent obtained a license to practice medicine by fraud, misrepresentation and false, misleading, inaccurate and incomplete statements when, on March 6, 2020, in a public meeting of the Board, when the Board was considering her application for licensure as a physician assistant in the State of Nevada, in open session, Respondent informed the Board that she had not practiced clinical medicine since she had been incarcerated, and stated that, though she had secured a job at a medical spa, and planned in the future to perform plastic surgery injections, in-office procedures, excisions, and assisting with different procedures, nevertheless, she had not done so yet and the aforementioned job offer was contingent upon her obtaining a license in Nevada.

211. As demonstrated by, but not limited to, the above-outlined facts, Respondent's statements to the Board on March 6, 2020, were materially false and Respondent knew they were materially false when she made the statements.

212. As demonstrated by, but not limited to, the above-outlined facts, Respondent's statements to the Board on March 6, 2020, were knowing misrepresentations of the truth and made to conceal material facts that would have prevented her from obtaining licensure.

213. As demonstrated by, but not limited to, the above-outlined facts, Respondent's statements to the Board on March 6, 2020, were intentionally misleading, and made to induce the

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Board to act to the detriment of the public safety by issuing her a license to practice medicine, despite the fact that she had already been knowingly, willingly, feloniously practicing medicine without a license.

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

V. RESPONDENT'S PERFORMANCE OF MEDICAL SERVICES WITHOUT A SUPERVISING PHYSICIAN, ADMINISTRATION OF CONSCIOUS SEDATION AT VIDA SPA, AN UNPERMITTED AND UNACCREDITED FACILITY PURSUANT TO NRS 449.442, AND RELATED VIOLATIONS OF THE NEVADA MEDICAL PRACTICE ACT

I. Respondent's Treatment of Patient I

215. Patient I was a twenty-nine (29) year-old female at the time of the events at issue.

216. At all times relevant to Respondent's treatment of Patient I, the so-called "medical director" of Vida Spa was Salvador Borromeo, III, M.D.

217. At all times relevant to Respondent's treatment of Patient I, Respondent did not have a supervising physician, and did not have a supervising physician agreement on file with and accepted by the Board, and was therefore expressly prohibited from performing medical services pursuant to NAC 630.375(2).

218. The medical services rendered to Patient I by Respondent did not occur in a life-threatening or emergency situation.

219. On June 1, 2020, Respondent, who did not have her own DEA registration and controlled substance license issued by the NSBOP, utilized the prescribing credentials of Salvador Borromeo, III, M.D., to issue prescriptions to Patient I for Oxycodone-acetaminophen (a Schedule II Controlled Substance) 5-325 mg tablets, 12 ct. for 3 days; Alprazolam (a Schedule IV Controlled Substance) 1 mg tablets, 4 ct. for 2 days; Promethazine 25 mg tablets, 10 ct. for 2 days, Sulfameth/Trimethprim 800/160 mg tablets, 20 ct. for 10 days.

220. Respondent issued prescriptions for these controlled substances and dangerous drugs by using the pre-printed prescription pad of Salvador Borromeo, III, M.D., which contained his pre-printed DEA number; the prescription was completed by Respondent, or by a Vida Spa employee or agent acting at Respondent's direction, with Patient I's name and with the

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corresponding medications, quantities and doses. Respondent, or a Vida Spa employee or agent acting at Respondent's direction, presented the prescription to Dr. Borromeo, who then signed the prescription with the understanding that the controlled substances and dangerous drugs would then be used by Respondent on Patient I for the purpose of performing an invasive surgical procedure on Patient I.

221. The material purpose for prescribing the controlled substances to Patient I was conscious sedation and pain control for an invasive surgical procedure to be performed on Patient I.

222. Dr. Borromeo's express purpose in signing the already completed written prescriptions for controlled substances for Patient I was for conscious sedation and pain control for invasive surgical procedure to be performed on Patient I.

223. The written prescription issued for Patient I in this manner was then presented to Pharmacy Santa Maria, at 3827 E. Sunset Rd, Ste L, Las Vegas, Nevada 89120, which filled the prescription, and the controlled substances and dangerous drugs were then delivered directly to Vida Spa. The controlled substances and dangerous drugs were accepted at Vida Spa by Respondent, or by a Vida Spa employee or agent acting at Respondent's direction, and then administered to Patient I by Respondent, or by a Vida Spa employee or agent supervised directly by Respondent.

224. Respondent, a Vida Spa employee or agent acting at Respondent's direction in the Respondent's presence, or Patient I at the direction and in the presence of Respondent, directly administered to Patient I the controlled substances, Alprazolam and Oxycodone-acetominophen, by ingestion.

225. Dr. Borromeo did not see or treat Patient I, and did not direct or supervise Respondent in her treatment of Patient I.

226. On June 2, 2020, at Vida Spa, Respondent performed a liposuction procedure on the upper and lower abdomen and arms of Patient I, and a fat grafting procedure to Patient I's breasts. Respondent administered tumescent anesthesia with Lidocaine and Epinephrine to Patient I, which Respondent obtained, without a patient-specific prescription or an order from a

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licensed practitioner or a practitioner otherwise authorized to perform medical services for Patient I, from a general store of controlled substances and dangerous drugs obtained and maintained by Vida Spa in violation of federal and state law.

227. Respondent was not supervised by any licensed physician while performing this invasive surgical procedure on Patient I at Vida Spa.

COUNT XXXVI

NAC 630.380(1)(c) – Performing Medical Services Without A Supervising Physician

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

229. Respondent performed medical services without the direction and supervision of a supervising physician, and in a non-emergency and non-life-threatening situation, when she treated Patient I on June 1 and 2, 2020.

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

COUNT XXXVII

NRS 630.301(4) - Malpractice

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

232. As demonstrated by, but not limited to, the above-outlined facts, Respondent committed malpractice when she failed to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when rendering medical services to Patient I by performing an invasive surgical procedure on Patient I without the direction and supervision of a supervising physician, by administering tumescent anesthesia to Patient I utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients without a patient-specific prescription or an order from a licensed practitioner or a practitioner otherwise authorized to perform medical services for Patient I, by administering or directly supervising the administration of conscious sedation to Patient I, which is a violation of NRS 630.373 and an apparent violation by Vida Spa of NRS 449.442(1)-(2).

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

COUNT XXXVIII

NRS 630.306(1)(o) – Administration of Conscious Sedation at an Unaccredited and Unpermitted Facility

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

235. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed to comply with NRS 630.373 when rendering medical services to Patient I, by, among other misconduct, administering and/or supervising directly the administration of conscious sedation to Patient I for an invasive surgical procedure that Respondent performed on Patient I at Vida Spa, which is not the office of a physician or osteopathic physician which holds a permit pursuant to NRS 449.435 to 449.448, inclusive, not a facility which holds a permit pursuant to NRS 449.435 to 449.448, inclusive, and not a medical facility as that term is defined in NRS 449.0151, and which is located inside the State of Nevada.

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

COUNT XXXIX

NRS 630.301(9) – Disreputable Conduct

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

238. Respondent engaged in conduct that brings the medical profession into disrepute by, among other misconduct, by performing an invasive surgical procedure on Patient I without the direction and supervision of a supervising physician, by administering tumescent anesthesia to Patient I utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients without a patient-specific prescription or an order from a licensed practitioner or a practitioner otherwise authorized to perform medical services for Patient I, by administering or directly supervising the

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administration of conscious sedation to Patient I, which is a violation of NRS 630.373 and an apparent violation by Vida Spa of NRS 449.442(1)-(2).

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

J. Respondent's Treatment of Patient J

240. Patient J was a forty (40) year-old female at the time of the events at issue.

241. At all times relevant to Respondent's treatment of Patient J, the so-called "medical director" of Vida Spa was Salvador Borromeo, III, M.D.

242. At all times relevant to Respondent's treatment of Patient J, Respondent did not have a supervising physician, and did not have a supervising physician agreement on file with and accepted by the Board, and was therefore expressly prohibited from performing medical services pursuant to NAC 630.375(2).

243. The medical services rendered to Patient J by Respondent did not occur in a life-threatening or emergency situation.

244. On June 2, 2020, Respondent, who did not have her own DEA registration and controlled substance license issued by the NSBOP, utilized the prescribing credentials of Salvador Borromeo, III, M.D., to issue prescriptions to Patient J for Oxycodone-acetaminophen (a Schedule II Controlled Substance) 5-325 mg tablets, 12 ct. for 3 days; Alprazolam (a Schedule IV Controlled Substance) 1 mg tablets, 4 ct. for 2 days; Promethazine 25 mg tablets, 10 ct. for 2 days, Sulfameth/Trimethprim 800/160 mg tablets, 20 ct. for 10 days.

245. Respondent issued prescriptions for these controlled substances and dangerous drugs by using the pre-printed prescription pad of Salvador Borromeo, III, M.D., which contained his pre-printed DEA number; the prescription was completed by Respondent, or by a Vida Spa employee or agent acting at Respondent's direction, with Patient J's name and with the corresponding medications, quantities and doses. Respondent, or a Vida Spa employee or agent acting at Respondent's direction, presented the prescription to Dr. Borromeo, who then signed the prescription with the understanding that the controlled substances and dangerous drugs

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would then be used by Respondent on Patient J for the purpose of performing an invasive surgical procedure on Patient J.

246. The material purpose for prescribing the controlled substances to Patient J was conscious sedation and pain control for an invasive surgical procedure to be performed on Patient J.

247. Dr. Borromeo's express purpose in signing the already completed written prescriptions for controlled substances for Patient J was for conscious sedation and pain control for invasive surgical procedure to be performed on Patient J.

248. The written prescription issued for Patient J in this manner was then presented to Pharmacy Santa Maria, at 3827 E. Sunset Rd, Ste L, Las Vegas, Nevada 89120, which filled the prescription, and the controlled substances and dangerous drugs were then delivered directly to Vida Spa. The controlled substances and dangerous drugs were accepted at Vida Spa by Respondent, or by a Vida Spa employee or agent acting at Respondent's direction, and then administered to Patient J by Respondent, or by a Vida Spa employee or agent supervised directly by Respondent.

249. Respondent, a Vida Spa employee or agent acting at Respondent's direction in the Respondent's presence, or Patient J at the direction and in the presence of Respondent, directly administered to Patient J the controlled substances, Alprazolam and Oxycodone-acetominophen, by ingestion.

250. Dr. Borromeo did not see or treat Patient J, and did not direct or supervise Respondent in her treatment of Patient J.

251. On June 3, 2020, at Vida Spa, Respondent performed a liposuction procedure on Patient J. Respondent administered tumescent anesthesia with Lidocaine and Epinephrine to Patient J, which Respondent obtained, without a patient-specific prescription or an order from a licensed practitioner or a practitioner otherwise authorized to perform medical services for Patient J, from a general store of controlled substances and dangerous drugs obtained and maintained by Vida Spa in violation of federal and state law.

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252. Respondent was not supervised by any licensed physician while performing this invasive surgical procedure on Patient J at Vida Spa.

COUNT XL

NAC 630.380(1)(c) – Performing Medical Services Without A Supervising Physician

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

254. Respondent performed medical services without the direction and supervision of a supervising physician, and in a non-emergency and non-life-threatening situation, when she treated Patient J on June 2 and 3, 2020.

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

COUNT XLI

NRS 630.301(4) - Malpractice

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

257. As demonstrated by, but not limited to, the above-outlined facts, Respondent committed malpractice when she failed to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when rendering medical services to Patient J by performing an invasive surgical procedure on Patient J without the direction and supervision of a supervising physician, by administering tumescent anesthesia to Patient J utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients without a patient-specific prescription or an order from a licensed practitioner or a practitioner otherwise authorized to perform medical services for Patient J, by administering or directly supervising the administration of conscious sedation to Patient J, which is a violation of NRS 630.373 and an apparent violation by Vida Spa of NRS 449.442(1)-(2).

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

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COUNT XLII

NRS 630.306(1)(o) – Administration of Conscious Sedation at an Unaccredited and Unpermitted Facility

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

260. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed to comply with NRS 630.373 when rendering medical services to Patient J, by, among other misconduct, administering and/or supervising directly the administration of conscious sedation to Patient J for an invasive surgical procedure that Respondent performed on Patient J at Vida Spa, which is not the office of a physician or osteopathic physician which holds a permit pursuant to NRS 449.435 to 449.448, inclusive, not a facility which holds a permit pursuant to NRS 449.435 to 449.448, inclusive, and not a medical facility as that term is defined in NRS 449.0151, and which is located inside the State of Nevada.

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

COUNT XLIII

NRS 630.301(9) – Disreputable Conduct

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

263. Respondent engaged in conduct that brings the medical profession into disrepute by, among other misconduct, by performing an invasive surgical procedure on Patient J without the direction and supervision of a supervising physician, by administering tumescent anesthesia to Patient J utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients without a patient-specific prescription or an order from a licensed practitioner or a practitioner otherwise authorized to perform medical services for Patient J, by administering or directly supervising the administration of conscious sedation to Patient J, which is a violation of NRS 630.373 and an apparent violation by Vida Spa of NRS 449.442(1)-(2).

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

K. Respondent's Treatment of Patient K

265. Patient K was a thirty-five (35) year-old female at the time of the events at issue.

266. At all times relevant to Respondent's treatment of Patient K, the so-called "medical director" of Vida Spa was Salvador Borromeo, III, M.D.

267. At all times relevant to Respondent's treatment of Patient K, Respondent did not have a supervising physician, and did not have a supervising physician agreement on file with and accepted by the Board, and was therefore expressly prohibited from performing medical services pursuant to NAC 630.375(2).

268. The medical services rendered to Patient K by Respondent did not occur in a life-threatening or emergency situation.

269. On June 3, 2020, Respondent, who did not have her own DEA registration and controlled substance license issued by the NSBOP, utilized the prescribing credentials of Salvador Borromeo, III, M.D., to issue prescriptions to Patient K for Oxycodone-acetaminophen (a Schedule II Controlled Substance) 5-325 mg tablets, 12 ct. for 3 days; Alprazolam (a Schedule IV Controlled Substance) 1 mg tablets, 4 ct. for 2 days; Promethazine 25 mg tablets, 10 ct. for 2 days, Sulfameth/Trimethprim 800/160 mg tablets, 20 ct. for 10 days.

270. Respondent issued prescriptions for these controlled substances and dangerous drugs by using the pre-printed prescription pad of Salvador Borromeo, III, M.D., which contained his pre-printed DEA number; the prescription was completed by Respondent, or by a Vida Spa employee or agent acting at Respondent's direction, with Patient K's name and with the corresponding medications, quantities and doses. Respondent, or a Vida Spa employee or agent acting at Respondent's direction, presented the prescription to Dr. Borromeo, who then signed the prescription with the understanding that the controlled substances and dangerous drugs would then be used by Respondent on Patient K for the purpose of performing an invasive surgical procedure on Patient K.

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271. The material purpose for prescribing the controlled substances to Patient K was conscious sedation and pain control for an invasive surgical procedure to be performed on Patient K.

272. Dr. Borromeo's express purpose in signing the already completed written prescriptions for controlled substances for Patient K was for conscious sedation and pain control for invasive surgical procedure to be performed on Patient K.

273. The written prescription issued for Patient K in this manner was then presented to Pharmacy Santa Maria, at 3827 E. Sunset Rd, Ste L, Las Vegas, Nevada 89120, which filled the prescription, and the controlled substances and dangerous drugs were then delivered directly to Vida Spa. The controlled substances and dangerous drugs were accepted at Vida Spa by Respondent, or by a Vida Spa employee or agent acting at Respondent's direction, and then administered to Patient K by Respondent, or by a Vida Spa employee or agent supervised directly by Respondent.

274. Respondent, a Vida Spa employee or agent acting at Respondent's direction in the Respondent's presence, or Patient K at the direction and in the presence of Respondent, directly administered to Patient K the controlled substances, Alprazolam and Oxycodone-acetominophen, by ingestion.

275. Dr. Borromeo did not see or treat Patient K, and did not direct or supervise Respondent in her treatment of Patient K.

276. On June 4, 2020, at Vida Spa, Respondent performed a liposuction procedure on the upper back and flanks of Patient K. On information and belief, Respondent administered tumescent anesthesia with Lidocaine and Epinephrine to Patient K, which Respondent obtained, without a patient-specific prescription or an order from a licensed practitioner or a practitioner otherwise authorized to perform medical services for Patient K, from a general store of controlled substances and dangerous drugs obtained and maintained by Vida Spa in violation of federal and state law.

277. Respondent was not supervised by any licensed physician while performing this invasive surgical procedure on Patient K at Vida Spa.

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COUNT XLIV

NAC 630.380(1)(c) – Performing Medical Services Without A Supervising Physician

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

279. Respondent performed medical services without the direction and supervision of a supervising physician, and in a non-emergency and non-life-threatening situation, when she treated Patient K on June 3 and 4, 2020.

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

COUNT XLV

NRS 630.301(4) - Malpractice

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

282. As demonstrated by, but not limited to, the above-outlined facts, Respondent committed malpractice when she failed to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when rendering medical services to Patient K by performing an invasive surgical procedure on Patient K without the direction and supervision of a supervising physician, by administering tumescent anesthesia to Patient K utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients without a patient-specific prescription or an order from a licensed practitioner or a practitioner otherwise authorized to perform medical services for Patient K, by administering or directly supervising the administration of conscious sedation to Patient K, which is a violation of NRS 630.373 and an apparent violation by Vida Spa of NRS 449.442(1)-(2).

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

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COUNT XLVI

NRS 630.306(1)(o) – Administration of Conscious Sedation at an Unaccredited and Unpermitted Facility

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

285. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed to comply with NRS 630.373 when rendering medical services to Patient K, by, among other misconduct, administering and/or supervising directly the administration of conscious sedation to Patient K for an invasive surgical procedure that Respondent performed on Patient K at Vida Spa, which is not the office of a physician or osteopathic physician which holds a permit pursuant to NRS 449.435 to 449.448, inclusive, not a facility which holds a permit pursuant to NRS 449.435 to 449.448, inclusive, and not a medical facility as that term is defined in NRS 449.0151, and which is located inside the State of Nevada.

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

COUNT XLVII

NRS 630.301(9) – Disreputable Conduct

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

288. Respondent engaged in conduct that brings the medical profession into disrepute by, among other misconduct, by performing an invasive surgical procedure on Patient K without the direction and supervision of a supervising physician, by administering tumescent anesthesia to Patient K utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients without a patient-specific prescription or an order from a licensed practitioner or a practitioner otherwise authorized to perform medical services for Patient K, by administering or directly supervising the administration of conscious sedation to Patient K, which is a violation of NRS 630.373 and an apparent violation by Vida Spa of NRS 449.442(1)-(2).

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

L. Respondent's Treatment of Patient L

290. Patient L was a forty (40) year-old female at the time of the events at issue.

291. At all times relevant to Respondent's treatment of Patient L, the so-called "medical director" of Vida Spa was Salvador Borromeo, III, M.D.

292. At all times relevant to Respondent's treatment of Patient L, Respondent did not have a supervising physician, and did not have a supervising physician agreement on file with and accepted by the Board, and was therefore expressly prohibited from performing medical services pursuant to NAC 630.375(2).

293. The medical services rendered to Patient L by Respondent did not occur in a life-threatening or emergency situation.

294. On June 4, 2020, Respondent, who did not have her own DEA registration and controlled substance license issued by the NSBOP, utilized the prescribing credentials of Salvador Borromeo, III, M.D., to issue prescriptions to Patient L for Oxycodone-acetaminophen (a Schedule II Controlled Substance) 5-325 mg tablets, 12 ct. for 3 days; Alprazolam (a Schedule IV Controlled Substance) 1 mg tablets, 4 ct. for 2 days; Promethazine 25 mg tablets, 10 ct. for 2 days, Sulfameth/Trimethprim 800/160 mg tablets, 20 ct. for 10 days.

295. Respondent issued prescriptions for these controlled substances and dangerous drugs by using the pre-printed prescription pad of Salvador Borromeo, III, M.D., which contained his pre-printed DEA number; the prescription was completed by Respondent, or by a Vida Spa employee or agent acting at Respondent's direction, with Patient L's name and with the corresponding medications, quantities and doses. Respondent, or a Vida Spa employee or agent acting at Respondent's direction, presented the prescription to Dr. Borromeo, who then signed the prescription with the understanding that the controlled substances and dangerous drugs would then be used by Respondent on Patient L for the purpose of performing an invasive surgical procedure on Patient L.

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296. The material purpose for prescribing the controlled substances to Patient L was conscious sedation and pain control for an invasive surgical procedure to be performed on Patient L.

297. Dr. Borromeo's express purpose in signing the already completed written prescriptions for controlled substances for Patient L was for conscious sedation and pain control for invasive surgical procedure to be performed on Patient L.

298. The written prescription issued for Patient L in this manner was then presented to Pharmacy Santa Maria, at 3827 E. Sunset Rd, Ste L, Las Vegas, Nevada 89120, which filled the prescription, and the controlled substances and dangerous drugs were then delivered directly to Vida Spa. The controlled substances and dangerous drugs were accepted at Vida Spa by Respondent, or by a Vida Spa employee or agent acting at Respondent's direction, and then administered to Patient L by Respondent, or by a Vida Spa employee or agent supervised directly by Respondent.

299. Respondent, a Vida Spa employee or agent acting at Respondent's direction in the Respondent's presence, or Patient L at the direction and in the presence of Respondent, directly administered to Patient L the controlled substances, Alprazolam and Oxycodone-acetominophen, by ingestion.

300. Dr. Borromeo did not see or treat Patient L, and did not direct or supervise Respondent in her treatment of Patient L.

301. On June 5, 2020, at Vida Spa, Respondent performed a liposuction procedure on the abdomen, flanks back and "bra straps"of Patient L, and a fat transfer to the buttocks of Patient L. Respondent administered tumescent anesthesia with Lidocaine and Epinephrine to Patient L, which Respondent obtained, without a patient-specific prescription or an order from a licensed practitioner or a practitioner otherwised authorized to perform medical services for Patient L, from a general store of controlled substances and dangerous drugs obtained and maintained by Vida Spa in violation of federal and state law.

302. Respondent was not supervised by any licensed physician while performing this invasive surgical procedure on Patient L at Vida Spa.

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COUNT XLVIII

NAC 630.380(1)(a) – Performing Medical Services Without A Supervising Physician

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

304. Respondent performed medical services without the direction and supervision of a supervising physician, and in a non-emergency and non-life-threatening situation, when she treated Patient L on June 4 and 5, 2020.

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

COUNT XLIX

NRS 630.301(4) - Malpractice

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

307. As demonstrated by, but not limited to, the above-outlined facts, Respondent committed malpractice when she failed to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when rendering medical services to Patient L by performing an invasive surgical procedure on Patient L without the direction and supervision of a supervising physician, by administering tumescent anesthesia to Patient L utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients without a patient-specific prescription or an order from a licensed practitioner or a practitioner otherwise authorized to perform medical services for Patient L, by administering or directly supervising the administration of conscious sedation to Patient L, which is a violation of NRS 630.373 and an apparent violation by Vida Spa of NRS 449.442(1)-(2).

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

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COUNT L

NRS 630.306(1)(o) – Administration of Conscious Sedation at an Unaccredited and Unpermitted Facility

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

310. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed to comply with NRS 630.373 when rendering medical services to Patient L, by, among other misconduct, administering and/or supervising directly the administration of conscious sedation to Patient L for an invasive surgical procedure that Respondent performed on Patient L at Vida Spa, which is not the office of a physician or osteopathic physician which holds a permit pursuant to NRS 449.435 to 449.448, inclusive, not a facility which holds a permit pursuant to NRS 449.435 to 449.448, inclusive, and not a medical facility as that term is defined in NRS 449.0151, and which is located inside the State of Nevada.

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

COUNT LI

NRS 630.301(9) – Disreputable Conduct

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

313. Respondent engaged in conduct that brings the medical profession into disrepute by, among other misconduct, by performing an invasive surgical procedure on Patient L without the direction and supervision of a supervising physician, by administering tumescent anesthesia to Patient L utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients without a patient-specific prescription or an order from a licensed practitioner or a practitioner otherwise authorized to perform medical services for Patient L, by administering or directly supervising the administration of conscious sedation to Patient L, which is a violation of NRS 630.373 and an apparent violation by Vida Spa of NRS 449.442(1)-(2).

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

V. RESPONDENT'S CONTINUAL FAILURE TO ENGAGE IN THE PRACTICE OF MEDICINE IN A PROFESSIONAL MANNER

COUNT LII

NRS 630.306(1)(g) – Continual Failure to Practice Medicine Properly

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

316. As demonstrated by, but not limited to, the above-outlined facts, by abundantly and abidingly demonstrating through numerous, repeated, knowing, willful and criminal failures, both before and after her licensure in this state, by engaging in the unlicensed practice of medicine, committing malpractice, violating state and federal laws pertaining to the proper handling, prescription and administration of dangerous drugs and controlled substances, performing medical services without a supervising physician, and obtaining licensure in this state by fraud and misrepresentation, among other serious violations, Respondent has continually failed to exercise the skill and diligence and use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.

317. Respondent's conduct, considered in its entirety, is extraordinarily and persistently unprofessional in character.

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

COUNT LIII

NRS 630.3065(2)(a) – Knowing or Willful Failure to Comply with an Order of the Investigative Committee

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

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320. Pursuant to NRS 630.3065(2)(a), knowingly or willfully failing to comply with an order of the Investigative Committee of the Board is grounds for disciplinary action or denying licensure.

321. The IC is investigating complaints related to instances of alleged malpractice and serious patient injury caused by Licensee, in furtherance of which the IC has issued an Order to Produce Healthcare Records ("Order for Records") pursuant to its authority pursuant to NRS 630.311(1), and issued an allegation letter, both of which lawfully command a response from Licensee.

322. Pursuant to NRS 630.254, Licensee is required to maintain a permanent mailing address with the Board to which all communications from the Board to the licensee must be sent.

323. The IC sent its allegation letter to Licensee by USPS Regular Mail addressed to Licensee's address of record on or about December 17, 2020.

324. The IC sent its allegation letter and Order for Records to Licensee by USPS Regular Mail addressed to Licensee's address of record on or about January 29, 2021.

325. The IC sent its allegation letter and Order for Records to Licensee by USPS. Certified Mail addressed to Licensee's address of record on or about February 26, 2021, which was certified delivered on March 1, 2021.

326. The IC sent its allegation letter and Order for Records to Licensee via email to the email address on file with the Board on or about March 19, 2021.

327. The IC sent its allegation letter and Order for Records to Licensee by FedEx Ground to Licensee's address of record on or about June 28, 2021, which was delivered on July 1, 2021.

328. As of the date of the filing of this First Amended Complaint, Licensee has failed to comply with the IC's allegation letter and lawful Order to Produce Healthcare Records, which failure is impeding the IC's investigation of this matters.

329. On information and belief, Licensee's failure to comply with the IC's Order is knowing and willful.

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330. 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 her and give him notice that she 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 19th day of July, 2021.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

AARON B. FRICKE, J.D.
General Counsel
9600 Gateway Drive
Reno, NV 89521
Tel: (775) 688-2559
Email: africke@medboard.nv.gov
Attorney for the Investigative Committee

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

VERIFICATION

STATE OF NEVADA)
: ss.
COUNTY OF CLARK)

Victor M. Muro, 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 19th day of July, 2021.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: V M Muro MD
VICTOR M. MURO, M.D.
Chairman for the Investigative Committee

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, Nevada 89521
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EXHIBIT 104

EXHIBIT 104

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against:	**Case No. 21-51633-1**
TAMMY LYNN HANKINS, PA-C	FILED
Respondent.	DEC - 7 2021
	NEVADA STATE BOARD OF MEDICAL EXAMINERS
	By:

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

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

This case was presented for adjudication and decision before the Nevada State Board of Medical Examiners (Board), during a regularly scheduled Board meeting on December 3, 2021, at 8:40 a.m., (Pacific Standard Time), located at 325 E. Warm Springs Road, Suite 225, Las Vegas, NV 89119. Tammy Lynn Hankins, PA-C (Respondent), was properly served with a notice of the adjudication, including the date, time, and location. Respondent was not present personally or through an attorney. Rosalie M. Bordelove, Esq., Chief Deputy Attorney General, served as legal counsel to the Board. The adjudicating members of the Board rendering these Findings of Fact, Conclusions of Law (FOFCOL) and Order are: Bret W. Frey, M.D., Chowdhury H. Ahsan, M.D., Ph.D., FACC, Ms. Pamela J. Beal, Col. Eric D. Wade, USAF (Ret.), Nicola (Nick) M. Spirtos, M.D., FACOG, and Carl N. Williams, Jr., M.D., FACS.

The Board, having received and read the First Amended Complaint (Complaint) and exhibits admitted at the hearing of this matter, the Hearing Officer's Findings and Recommendations[1], and the transcript of the hearing, made its decision pursuant to its authority and provisions of the 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.

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

The Board, after due consideration of the record, evidence and law, and being fully advised in the premises, makes its FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER in this matter, as follows:

FINDINGS OF FACT

I.

Respondent held a license to practice medicine in the State of Nevada issued by the Board from March 6, 2020, to present.

II.

On July 20, 2021, the Investigative Committee filed its formal First Amended Complaint (Complaint) in Case No. 21-51633-1, alleging Respondent violated the Medical Practice Act. Respondent was served with the Complaint on July 24, 2021, at her address of record with the Board. Pursuant to NRS 630.254, each licensee shall maintain a permanent mailing address with the board to which all communications from the Board to the licensee must be sent. A licensee who changes his or her permanent mailing address shall notify the Board in writing of the new permanent mailing address within 30 days after the change.

The Complaint alleges fifty-three (53) violations of the Medical Practice Act that constitute grounds for initiating disciplinary action against a licensee, as follows: eight (8) counts of NRS 630.400(1)(d), Unlicensed Practice of Medicine, Counts I, V, IX, XIII, XVII, XXIII, XXVIII and XXXII; twelve (12) counts of NRS 630.301(4) Malpractice, Counts II, VI, X, XIV, XVIII, XXIV, XXIX, XXXIII, XXXVII, XLI, XLV and XLIX; five (5) counts of NRS 630.3062(1)(h) Fraudulent, Illegal, Unauthorized and Otherwise Inappropriate Prescribing of Schedule IV Controlled Substance, Counts III, VII, XI, XV, XIX; twelve (12) counts of NRS 630.301(9) Disreputable Conduct, Counts IV, VIII, XII, XVI, XX, XXV, XXX, XXXIV, XXXIX, XLIII, XLVII and LI; two (2) counts of NRS 630.306(1)(u) Illegal Injection of Botox or Xeomin, Counts XXI and XXVI; three (3) counts of NRS 630.306(1)(u) Illegal Injection of Versa, Counts XXII, XXVII and XXXI; one (1) count of NRS 630.304(1) Fraud and Misrepresentation in Obtaining a License, Count XXXV; four (4) counts of NAC 630.380(1)(c) Performing Medical Services Without A Supervising Physician, Counts XXIV, XL, XLIV and XLVIII; four (4) counts

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of NRS 360.306(1)(o) Administration of Conscious Sedation at an Unaccredited and Unpermitted Facility, Counts XXXVIII, XLII, XLVI and L; one (1) count of NRS 630.306(1)(g) Continual Failure to Practice Medicine Properly, Count LII; and one (1) count of NRS 630.3065(2)(a) Knowing or Willful Failure to Comply with an Order of the Investigative Committee, Count LIII.

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

III.

An Order Scheduling Early Case Conference was filed on August 16, 2021, scheduling the Early Case Conference for the pending matter for September 2, 2021, at 10:00 a.m. This Order was mailed via USPS Certified Mail, postage pre-paid, to Respondent's address of record, and was delivered to and signed for on August 21, 2021, at 12:09 p.m. On September 2, 2021, a telephonic Early Case Conference was conducted in this matter. Aaron Bart Fricke, J.D., General Counsel, (Mr. Fricke) was present on behalf of the Investigative Committee (IC) of the Board, with Hearing Officer Patricia Halstead, Esq. Respondent did not appear or participate. The parties agreed to dates for the pre-hearing conference, exchange of documents, and the hearing date.

In compliance with NAC 630.465, a Scheduling Order, setting pre-hearing and hearing was filed on September 13, 2021, setting the pre-hearing conference for September 16, 2021, at 3:30 p.m., and setting the hearing for October 19, 2021, at 8:30 a.m., at the Office of the Nevada State Board of Medical Examiners, 9600 Gateway Drive, Reno, Nevada 89521, and video conferenced to the Board's Las Vegas Office, located at 325 E. Warm Springs Road, Suite 225, Las Vegas, NV 89119. The Scheduling Order was delivered to Respondent at her address of record via Fed Ex Priority mail on September 14, 2021.

An Amended Scheduling Order was then filed on September 20, 2021, changing the Pre-Hearing Conference to September 22, 2021, the remainder of the Scheduling Order filed on September 13, 2021, remained the same. The Amended Scheduling Order was delivered to Respondent at her address of record via Fed Ex Priority Mail on September 21, 2021.

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The Pre-Hearing Conference was held telephonically as noticed and ordered, at which time, legal counsel for the IC, Mr. Fricke, appeared. Neither the Respondent nor any representative of the Respondent appeared at the Pre-Hearing Conference. Respondent was timely and properly served with the Pre-Hearing Conference Statement and the mandated Pre-Hearing Disclosures in accordance with NRS and NAC Chapters 630, NRS Chapters 241, 622A and 233B, and the requirements of due process, by Fed Ex Priority Mail, delivered to Respondent at her address of record on September 22, 2021, at 11:43 a.m.

IV.

On October 19, 2021, as duly noticed and ordered, a hearing was held before the Hearing Officer to receive evidence and to hear the arguments of both parties. Legal counsel for the IC, Mr. Fricke, appeared. Respondent did not attend the hearing, nor did she have counsel appear on her behalf. Mr. Fricke presented the IC's case, offered documentary evidence and presented witness testimony. Exhibits 1 through 58, were marked and admitted into evidence.

Pursuant to NRS 622A.350(1) and (2), as Respondent did not appear and as a continuance had not been scheduled, sought or granted, Mr. Fricke made an offer of proof on the record that Respondent was given sufficient legal notice. Upon a determination by the regulatory body or hearing panel or officer that the absent 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. Based thereon, good cause appearing, the Hearing Officer found that sufficient legal notice had been provided to the Respondent, and therefore found that the Board may accept the IC's allegations against the Respondent in the Complaint as true.

Notwithstanding the presumption afforded the Board pursuant to NRS 622A.350(2), Mr. Fricke presented the IC's case in its entirety, thus establishing a record for the Board to review the case on the merits.

The Hearing Officer provided the Findings and Recommendations, filed November 17, 2021. This matter was scheduled for final adjudication on December 3, 2021, at a regularly scheduled Board meeting.

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The notice of the adjudication was sent via USPS Certified Mail, and was delivered on Respondent's address of record on October 30, 2021, at 12:55 p.m.

A copy of the adjudication materials along with a copy of the Hearing Officer's Findings and Recommendation were mailed via USPS Certified Mail, and were delivered on Respondent's address of record on November 26, 2021, at 1:48 p.m.

V.

Pursuant to NRS 622A.300(5)(a), the Findings and Recommendations of the Hearing Officer are hereby approved and adopted by the Board, in their entirety and without modification, and are hereby specifically incorporated and made part of this Order by reference. A copy of the Findings and Recommendations filed on November 17, 2021, in this matter is attached hereto as **Exhibit 1**.

VI.

The Board hereby finds that Counts I-LIII, as set forth in the Complaint, and as recapitulated in Paragraph II above, have been established by a preponderance of the evidence.

VII.

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 First Amended Complaint, as follows: eight

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(8) counts of NRS 630.400(1)(d), Unlicensed Practice of Medicine, Counts I, V, IX, XIII, XVII, XXIII, XXVIII and XXXII; twelve (12) counts of NRS 630.301(4) Malpractice, Counts II, VI, X, XIV, XVIII, XXIV, XXIX, XXXIII, XXXVII, XLI, XLV and XLIX; five (5) counts of NRS 630.3062(1)(h) Fraudulent, Illegal, Unauthorized and Otherwise Inappropriate Prescribing of Schedule IV Controlled Substance, Counts III, VII, XI, XV, XIX; twelve (12) counts of NRS 630.301(9) Disreputable Conduct, Counts IV, VIII, XII, XVI, XX, XXV, XXX, XXXIV, XXXIX, XLIII, XLVII and LI; two (2) counts of NRS 630.306(1)(u) Illegal Injection of Botox or Xeomin, Counts XXI and XXVI; three (3) counts of NRS 630.306(1)(u) Illegal Injection of Versa, Counts XXII, XXVII and XXXI; one (1) count of NRS 630.304(1) Fraud and Misrepresentation in Obtaining a License, Count XXXV; four (4) counts of NAC 630.380(1)(c) Performing Medical Services Without A Supervising Physician, Counts XXIV, XL, XLIV and XLVIII; four (4) counts of NRS 360.306(1)(o) Administration of Conscious Sedation at an Unaccredited and Unpermitted Facility, Counts XXXVIII, XLII, XLVI and L; one (1) count of NRS 630.306(1)(g) Continual Failure to Practice Medicine Properly, Count LII; and one (1) count of NRS 630.3065(2)(a) Knowing or Willful Failure to Comply with an Order of the Investigative Committee, Count LIII. 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,

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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), the Board shall administer a written public reprimand to Respondent.

2. Pursuant to NRS 630.352(4)(d), Respondent's license to practice medicine as a physician assistant is hereby revoked. In accord with NRS 622A.410(1), the Board hereby prescribes a period of ten (10) years, during which Respondent may not apply for reinstatement of this license;

3. Pursuant to NRS 630.352(4)(h), Respondent is hereby ordered to pay a fine of one thousand dollars ($1,000.00) per violation of the Medical Practice Act, for a total fine in the amount of fifty-three thousand dollars ($53,000.00), to be paid within sixty (60) days of service of this Order; and

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4. Respondent is hereby further 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 seventeen thousand seven hundred forty-five dollars and eighty-one cents ($17,745.81), to be paid within sixty (60) days of service of this Order. The Board, and/or its designee, are granted the authority to collect any and all funds due under this Order.

IT IS SO ORDERED.

DATED this 7th day of December, 2021.

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____
VICTOR M. MURO, M.D.
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 **TAMMY LYNN HANKINS, PA-C**, Case No. 21-51633-1.

I further certify that Victor M. Muro, 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 Victor M. Muro, 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 7th day of December, 2021.

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: Maggie Arias-Petrel

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

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EXHIBIT 1

EXHIBIT 1

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and

Complaint Against

TAMMY LYNN HANKINS, PA-C,

Respondent.

Case No. 21-51633-1

FILED

NOV 17 2021

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By:

FINDINGS AND RECOMMENDATIONS

TO: Aaron B. Fricke, Esq.
General Counsel
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, Nevada 89521

Tammy Lynn Hankins, PA-C
3753 Cherry Tree Blvd.
Lake Havasu City, Arizona 86406

This matter came for evidentiary hearing on October 19, 2021. Appearing for the hearing were Aaron B. Fricke, Esq. on behalf of the Investigative Committee (the "IC") and the undersigned Hearing Officer. Respondent Tammy Lynn Hankins, PA-C ("Respondent") did not appear nor otherwise participate.

Notice to Respondent of the date and time of the hearing was confirmed on the record. The hearing record does not reflect proof of service of the Scheduling Order, which initially set the evidentiary hearing date and time;[1] however, an Amended Scheduling Order was issued and filed on September 20, 2021, noticing the evidentiary hearing. A Proof of Service filed on

[1] A Proof of Service for the Scheduling Order was filed subsequent to the evidentiary hearing on November 10, 2021, which indicates that the Scheduling Order, which set the evidentiary hearing date and time, was delivered to Respondent by certified mail on September 14, 2021 to her last known address.

September 24, 2021, indicates that the Amended Scheduling Order was served upon Respondent by certified mail to her last known address on file with the Nevada State Board of Medical Examiners (the "Board") on September 21, 2021. *See* NRS 630.254; NRS 630.255; NRS 630.344; and Volume 1, Exhibit 15. Thus, Respondent had notice of the evidentiary hearing.

Prior filings were also sent to Respondent by which she had notice of the proceedings such as the Complaint and Errata thereto, proofs of service for which are reflected in the record at Volume 1, Exhibits 4 and 5 respectively; the First Amended Complaint and Order for Summary Suspension, proof of service for which are reflected at Volume 1, Exhibit 8; and the Order Scheduling Early Case Conference, proof of service for which is reflected at Volume 1, Exhibit 10. Despite the filings served upon Respondent, she has failed to make any appearance in this matter.

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

> 1. If a party fails to appear at a scheduled hearing and a continuance has not been scheduled or granted, any party who is present at the hearing may make an offer of proof that the absent party was given sufficient legal notice. Upon a determination by the regulatory body or hearing panel or officer that the absent 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.
>
> 2. If the licensee fails to appear at a hearing, the regulatory body or hearing panel or officer may accept the allegations against the licensee in the charging document as true.

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

In so proceeding, Mr. Fricke asked that the matter be considered from the record, which includes the transcript of the September 20, 2021 Summary Suspension Hearing (Volume 1, Exhibit 19) and all exhibits submitted and admitted in support thereof (Volume 2, Exhibits 1-58),

which were incorporated by reference into the record of the evidentiary hearing for purposes of its adjudication. Mr. Fricke then provided a closing statement, gave direction on the organization of the Amended Complaint and the exhibits, and submitted the matter for consideration.

Having heard from Mr. Fricke regarding the circumstances underlying the initial suspension of Respondent's license and the continued basis therefore; having considered the same in consideration of the charges against Respondent; and there being no contradictory evidence presented in either proceeding, the undersigned Hearing Officer finds as follows.

1. Respondent has prior felony convictions out of the State of Arizona for Conspiracy to Obtain a Dangerous Drug by Fraud, a Class B felony (conviction date is October 2, 2013), and Sexual Conduct with a Minor, a Class 6 felony (conviction date is August 11, 2014). Volume 2, Exhibits 17-19. Respondent was granted the privilege of probation for the Conspiracy to Obtain a Dangerous Drug by Fraud conviction, which was revoked based upon the violation of her probation and the subsequent Sexual Conduct with a Minor conviction. Id.

2. Subsequent to her incarceration for the Arizona felony convictions, perhaps in early October 2019, although it is not clear, Respondent began employment with Vida Spa LLC, a Nevada Limited Liability Company ("Vida Spa").

3. On March 6, 2020, Respondent appeared before the Board in support of her then submitted application to obtain licensure to practice as a physician's assistant in the State of Nevada. Respondent represented to the Board that her employment with Vida Spa was contingent upon her licensing and that she had not practiced clinical medicine since 2013. Volume II, Exhibit 20, pg. 318.

4. Respondent was granted Nevada license on Mach 6, 2020.

5. On October 6, 2020, the Board received a complaint against Respondent regarding patient care and bodily injury in relation to a medical procedure that Respondent performed on June 27, 2020. Volume 1, Exhibit 19, p. 16; Volume II, Exhibit 30.

6. The IC investigated the lodged complaint and, in so doing, requested a response from Respondent to several allegations of wrongdoing. No response by Respondent was

forthcoming and a subpoena duces tecum was eventually issued to Vida Spa. Volume II, Exhibits 30-37.

7. Records obtained from Vida Spa in the course of the IC's investigation against Respondent demonstrate that Respondent had been practicing medicine at Vida Spa since at least October 2019, six (6) months prior to her appearance before the Board referenced in paragraph 3 above.

8. The records obtained in the course of the IC's investigation demonstrate that Respondent performed liposuction, a medical procedure, for Patient A on October 10, 2019; Patient B on October 8, 2019; Patient C on October 9, 2019; Patent D on October 13, 2019; Patient E on October 8, 2019; Patient I on June 2, 2020; Patient J on June 3, 2020; Patient K on June 4, 2020; and Patient L on June 5, 2020. In addition, Respondent performed medical procedures by undertaking Botox and Versa injections for Patient F on August 14, 2019; Xeomin and Versa injections for Patient G on October 29, 2019; and Versa injections for Patient H on November 5, 2019. Volume II, Exhibits 1 through 13, and 38-58; Volume II, Exhibit 19.

9. While undertaking each of the above-referenced medical procedures, Respondent was not working under a supervising physician. Volume I, Exhibit 19, pp. 36, 49-51, 53; Volume II, Exhibits 25, 26, and 30; *see* NRS 630.271.

10. The above-referenced medical procedures were performed in a facility that was not a medical facility nor otherwise permitted so as to legally accommodate the administration of anesthesia or sedation. Volume I, Exhibit 19, p. 73; *see* NRS 449.0151; NRS 630.373.

11. In undertaking the treatment of Patients A through E and I through L, Respondent, who was not a licensed prescribing practitioner in that she was not licensed at the time nor under the supervision of a prescribing physician (*see* NRS 453.126), prescribed controlled substances, namely Tramadol; Diazepam; Alprazolam; and/or Oxycodone. Volume II, Exhibits 1 through 5, 9 through 13; Volume II, Exhibit 19, pp. 51-54, 59-65, 68.

12. Respondent performed invasive medical procedures, namely liposuction and/or fat grafting on Patients A through E and I through L, without proper sedation and in a manner dangerous to patient care and safety, utilizing a tumescent anesthesia with Lidocaine and

Epinephrine or other controlled substances from Vida Spa's general storage of controlled substances, which were obtained by Respondent without a patient-specific prescription or an order from a licensed prescribing and supervising practitioner, and which Respondent utilized to facilitate conscious sedation. Volume II, Exhibits 1 through 5, 9 through 13; Volume II, Exhibit 19, pp. 59-70.

WHEREFORE, the undersigned hearing officer finds as follows:

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

Pursuant to NRS 622A.350(2) the undersigned accepts the allegations against Respondent in the First Amended Complaint, filed June 20, 2021, as true;

Aside from the authority granted by NRS 622A.350(2), the undersigned hearing officer finds that the IC established violations of Counts I; V; IX; XIII; XVII; XXIII; XXVIII; and XXXII, Unlicensed Practice of Medicine, in that Respondent undertook the medical procedures outlined in paragraph 8 herein prior to obtaining her Nevada license.

The undersigned hearing officer finds that the IC established violations of Counts II; VI; X; XIV; XVIII; XXIV; XXIX; XXXIII; XXXVII; XLI; XLV; and XLIX, Malpractice, in that Respondent failed use reasonable care, skill, or knowledge ordinarily used under similar circumstances by similarly trained and experienced providers of health care in treating Patients A through L by undertaking medical procedures without being properly licensed; by undertaking medical procedures without required supervision; by undertaking invasive medical procedures in an unpermitted and non-medical facility; by fraudulently prescribing and/or improperly administering controlled substances; and/or by utilizing controlled substances in a manner that deviated from standard practice for the procedures undertaken.

The undersigned hearing officer finds that the IC established violations of Counts III; VII; XI; XV; and XIX, Fraudulent, Illegal, Unauthorized and Otherwise Inappropriate Prescribing of Schedule IV Controlled Substances, in that Respondent prescribed Tramadol and/or Diazepam, each of which are controlled substances, to Patients A, B, C, D, and E, and did so without the involvement and supervision of a licensed prescribing practitioner and by utilizing the

prescription credentials of a licensed prescribing practitioner who had not seen nor treated the patients to which the controlled substances were prescribed.

The undersigned hearing officer finds that the IC established violations of Counts IV; VIII; XII; XVI; XX; XXV; XXX; XXXIV; XXXIX; XLIII; XLVII; and LI, Disreputable Conduct, in that Respondent engaged in conduct that brings the medical profession into disrepute by and through unethical conduct that includes having practiced medicine without a license; engaging in the unsupervised practice of medicine; having performed invasive medical procedures in an unpermitted and non-medical facility; having fraudulently prescribed controlled substances; and/or having accessed and misused controlled substance(s) to invoke conscious sedation for liposuction procedures in relation to the treatment of patients A through L.

The undersigned hearing officer finds that the IC established violations of Counts XXI; XXII; XXVI; XXVII; and XXXI, Illegal Injection, in that Respondent injected Patients F and G with Botox/Xeomin, a neuromodulator derived from clostridium botulinum, and injected Patients F, G, and H with Versa, a dermal or soft tissue filler, without being licensed to practice medicine at the time of the injections and did so in an unpermitted and non-medical facility.

The undersigned hearing officer finds that the IC established a violation of Count XXXV, Fraud and Misrepresentation in Obtaining a License, in that Respondent appeared before the Board on March 6, 2020, and knowingly and falsely represented that she had not practiced clinical medicine since 2013 and that her job at a Las Vegas medical spa, i.e., Vida Spa, was contingent upon her obtaining a license to practice in Nevada. This representation by Respondent was false and was made in an attempt to obtain her Nevada medical license. Respondent had been employed by and practicing medicine at Vida Spa since at least October 2019.

The undersigned hearing officer finds that the IC established violations of Counts XXXVI; XL; XLIV; and XLVIII, Performing Medical Services Without a Supervising Physician, in that Respondent performed liposuction and/or fat grafting procedures for Patients I, J, K, and L without supervision by a licensed physician.

The undersigned hearing officer finds that the IC established violations of Counts XXXVIII; XLII; XLVI; and L, Administration of Conscious Sedation at an Unaccredited and

Unpermitted Facility in that Respondent administered or supervised administration of conscious sedation to Patients I, J, K, and L in an unpermitted, non-medical facility, namely Vida Spa.

The undersigned hearing officer finds that the IC established a violation of Count LII, Continual Failure to Practice Medicine Property, in that Respondent continually undertook the conduct complained of herein over the course of several months and while doing so failed to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.

The undersigned hearing officer finds that the IC established a violation of Count LIII, Knowing or Willful Failure to Comply with an Order of the Investigative Committee, in that Respondent failed to respond to the allegation letter repeatedly sent to Respondent at her last known address, thus failing to comply with an order of the Board to provide requested information.

BASED UPON THE FOREGOING, it is recommended that the Board find against Respondent Tammy Lynn Hankins, PA-C as set forth herein.

RESPECTFULLY SUBMITTED this 16th day of November 2021.

Patricia Halstead, Esq., Hearing Officer for the
Nevada State Board of Medical Examiners
615 S. Arlington Ave.
Reno, NV 89509
(775) 322-2244
phalstead@halsteadlawoffices.com

EXHIBIT 105

EXHIBIT 105

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **SALVADOR GARCIA BORROMEO, M.D.,** **Respondent.**	**Case No. 21-12423-1** FILED AUG 11 2021 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 Aaron B. Fricke, J.D., General Counsel and attorney for the IC, having a reasonable basis to believe that Salvador Garcia Borromeo, 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 relevant to this Complaint a medical doctor holding an active license to practice medicine in the State of Nevada (License No. 8770). Respondent was originally licensed by the Board on August 24, 1998.

I. STATEMENT OF LAW

A. "Medical Directors," Medical Assistants, and the Unlicensed Practice of Medicine

2. NRS 630.305(1)(e) provides that aiding, assisting, employing or advising, directly or indirectly, any unlicensed person to engage in the practice of medicine, contrary to the provisions of NRS Chapter 630 or the regulations of the Board, is grounds for disciplinary action or denying licensure.

[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 Victor M. Muro, M.D., Chair, Weldon Havins, M.D., J.D., and Ms. Maggie Arias-Petrel.

3. Pursuant to NRS 630.020(1)-(4), the "Practice of medicine" means:

> 1. To diagnose, treat, correct, prevent or prescribe for any human disease, ailment, injury, infirmity, deformity or other condition, physical or mental, by any means or instrumentality, including, but not limited to, the performance of an autopsy.
>
> 2. To apply principles or techniques of medical science in the diagnosis or the prevention of any such conditions.
>
> 3. To perform any of the acts described in subsections 1 and 2 by using equipment that transfers information concerning the medical condition of the patient electronically, telephonically or by fiber optics, including, without limitation, through telehealth, from within or outside this State or the United States.
>
> 4. To offer, undertake, attempt to do or hold oneself out as able to do any of the acts described in subsections 1 and 2.

4. NRS 630.400(1)(d) provides that it is unlawful to practice medicine without being licensed under NRS Chapter 630.

5. Pursuant to NRS 630.400(2) and NRS 193.130(c) and (d), the unlawful practice of medicine is a felony, punishable by imprisonment in the state prison for a minimum term of not less than one (1) year and a maximum term of not more than five (5) years.

6. Pursuant to the Medical Practice Act, the only means by which a practitioner may lawfully aid, assist, employ or advise, directly or indirectly, an unlicensed person to engage in the practice of medicine, is by delegating specific tasks to an adequately supervised and trained "medical assistant."

7. Pursuant to NRS 630.0129, a "medical assistant" means a person who:

> (a) performs clinical tasks under the supervision of a practitioner, and
>
> (b) does not hold a license, certificate or registration issued by a professional licensing or regulatory board in this State to perform such clinical tasks; the term does not include a person who performs only administrative, clerical, executive or other nonclinical tasks.

8. Pursuant to NRS 630.306(1)(r), a practitioner must adequately supervise his or her medical assistants, and failing to do so is grounds for initiating disciplinary action or denying licensure.

9. Pursuant to NAC 630.830, a delegating practitioner is professionally responsible for the safety and performance of each task which is delegated to a medical assistant. Pursuant to NAC 630.810, a delegating practitioner may not delegate tasks to a medical assistant unless: (a) the

delegating practitioner knows that the medical assistant possesses the knowledge, skill and training to perform the task safely and properly; (b) the medical assistant is not required to be certified or licensed to perform that task; and (c) the medical assistant is employed by the delegating practitioner or the medical assistant and the delegating practitioner are employed by the same employer.

10. Pursuant to NAC 630.830(4), a delegating practitioner shall not delegate or otherwise allow a medical assistant to administer an anesthetic agent which renders a patient unconscious or semiconscious.

11. Pursuant to NAC 630.820, a delegating practitioner may not remotely supervise a medical assistant, except in a specific case of emergency in a rural area.[2]

12. Except as otherwise provided in NAC 630.820, pursuant to NAC 630.810, if a medical assistant is delegated a task which involves an "invasive procedure," [3] the delegating practitioner must be immediately available to exercise oversight in-person while the medical assistant performs the task.

13. The term "medical director" is not recognized or defined under the Medical Practice Act, and no law authorizes a licensee of the Board to, by calling himself or herself a "medical director," violate or circumvent the aforementioned statutes and regulations of the Medical Practice Act.

14. Accordingly, pursuant to NRS 630.400(1)(d), 630.305(1)(e), and 630.0129, and NAC 630.800-830:

a. A practitioner who, whether by serving as a so-called "medical director" or by some other relationship or circumstance, aids, assists, employs or advises, directly or indirectly, any unlicensed person to engage in the practice of medicine, may lawfully do so only by delegating tasks

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[2] Remote supervision of a medical assistant is prohibited unless: (a) the patient is located in a rural area; (b) the delegating practitioner is physically located a significant distance from the location where the task is to be performed; (c) the delegating practitioner determines that the exigent needs of the patient require immediate attention; (d) the patient and the delegating practitioner previously established a practitioner-patient relationship; and (e) the delegating practitioner is immediately available by telephone or other means of instant communication during the performance of the task by the medical assistant. As used in NAC 630.820, "rural area" means any area in this State other than Carson City or the City of Elko, Henderson, Reno, Sparks, Las Vegas or North Las Vegas.

[3] The Medical Practice Act does not define "invasive procedure," however, NAC 449.9733 pertaining to Medical Facilities defines "invasive procedure" as "a medical procedure involving entry into the human body by puncture or incision or by insertion of an instrument."

to an adequately supervised and properly trained medical assistant, who the delegating practitioner knows possesses the knowledge, skill and training to perform the task safely and properly, and the delegating practitioner is professionally responsible for the safety and performance of each task which is delegated to that medical assistant.

b. A practitioner who, whether by serving as a so-called "medical director" or by some other relationship or circumstance, aids, assists, employs or advises, directly or indirectly, any unlicensed person to engage in the practice of medicine, but who has not done so by delegating specific tasks to an adequately supervised and properly trained medical assistant, has violated NRS 630.305(1)(e), and is subject to discipline for aiding and abetting the unlicensed practice of medicine. In addition, the unlicensed person engaged in the practice of medicine has violated NRS 630.400(1)(d), by practicing medicine without a license.

c. A practitioner who delegates a medical task to a medical assistant, whether by serving as a so-called "medical director" or by some other relationship or circumstance, remains professionally responsible for, among other requirements, ensuring the following:

i. The safety and performance of each task delegated;

ii. The proper employment relationships between themselves and the medical assistant or their common employer;

iii. The medical assistant is sufficiently knowledgeable, trained and skilled to perform the tasks delegated to them;

iv. The medical assistant is adequately supervised, and the practitioner must be nearby to supervise the specific medical tasks delegated, and, if it is an invasive medical task, then the delegating practitioner must be immediately available to exercise oversight in-person while the medical assistant performs the task; and

v. The medical assistant does not administer an anesthetic agent which renders a patient unconscious or semiconscious.

d. A practitioner who delegates a medical task to a medical assistant, whether by serving as a so-called "medical director" or by some other relationship or circumstance, and who violates the aforementioned provisions of the NRS or NAC pertaining to medical assistants, and

who fails to adequately supervise that medical assistant as required under the circumstances, has violated NRS 630.306(1)(r), and is subject to discipline for failing to adequately supervise a medical assistant.

B. Cosmetologists, "Medical Spas" and "Medical Aestheticians," and the Unlicensed Practice of Medicine

15. Pursuant to NRS 644A.030, a licensed "cosmetologist" is not authorized by such license to practice medicine in any way. Rather, a licensed cosmetologist is authorized pursuant to NRS Chapter 644A to perform only non-medical, cosmetology services, such as cleansing, stimulating or massaging the scalp or cleansing or beautifying the hair by the use of cosmetic preparations, antiseptics, tonics, lotions or creams, cutting, trimming or shaping the hair, removing hair by the use of depilatories, waxing, tweezing or sugaring, except for the permanent removal of hair with needles, manicuring nails, massaging the skin, giving facials, and other miscellaneous non-medical, cosmetological services.

16. Pursuant to NAC 644A.790, a cosmetologist is further explicitly prohibited from performing "invasive procedures," which mean, for the purposes of professional licensing of cosmetologists, "an act that affects the structure or function of the skin other than the uppermost layers of the skin," and which, for the sake of regulating the practice of cosmetologists, includes, without limitation, (a) the application of electricity for the sole purpose of contracting a muscle, (b) the application of a topical lotion, cream or other substance which affects anything other than the uppermost layers of the skin, (c) the penetration of the skin by needles, and (d) the abrasion of the skin below the uppermost layers of the skin.

17. Further, there is no such license as "medical aesthetician" or "medical cosmetologist" authorized by any Nevada law or issued by any Nevada sanctioned professional licensing body. On the contrary, NAC 644A.870 specifically prohibits cosmetologists and aestheticians from using the terms "expert," "advanced" or "medical" in connection with any description of their practice in any branch of cosmetology or otherwise holding the licensee out to the public as an expert, advanced or medical practitioner of any branch of cosmetology.

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18. Accordingly, a Nevada licensed cosmetologist or aesthetician may not refer to himself or herself as a "medical cosmetologist" or "medical aesthetician" in connection with any description of their practice. They also may not, in fact, practice medicine in any way or perform invasive medical procedures or medical services of any kind, unless they do so as a "medical assistant" to a Nevada licensed medical professional, i.e., either as medical assistant to a Nevada licensed physician or physician assistant pursuant to NRS 630.0129, et. seq., and NAC 630.800-830, as described above, or similarly as another type of professional "assistant," "hygienist," "technician," or other such designation, who is delegated tasks by and under the direct supervision of another medical professional who is duly licensed pursuant to chapters 631 to 637, inclusive, 639 or 640 of NRS, and who remains professionally responsible for their conduct.

19. If a cosmetologist or aesthetician practices medicine in any way, unless he or she acts as a medical assistant and is delegated tasks and is properly supervised by a professional medical practitioner, then he or she is violating NRS 630.400(1)(d) by practicing medicine without a license.

C. Nevada Pharmacy Laws Regarding Controlled Substances, Dangerous Drugs and Hypodermic Devices

20. NRS 630.306(1)(b)(3) provides that engaging in conduct that violates a regulation adopted by the Nevada State Board of Pharmacy (Pharmacy Board) is grounds for initiating disciplinary action against a licensee.

21. Pursuant to NRS 630.3062(1)(h), fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, administering or dispensing of a controlled substance listed in schedule II, III or IV is grounds for initiating disciplinary action or denying licensure.

22. Pursuant to 21 Code of Federal Regulations (CFR) §1306.04(a)-(b) and NRS 453.381, a physician or physician assistant may prescribe or administer controlled substances only for a legitimate medical purpose and in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, and a prescription may not be issued in order for an individual practitioner

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to obtain controlled substances for supplying the individual practitioner for the purpose of general dispensing to patients. *See* 21 CFR §1306.04(a)-(b).

23. Pursuant to NRS 454.201, a "dangerous drug" is any drug, other than a controlled substance, unsafe for self-medication or unsupervised use, and includes, among other things, (1) any drug which has been approved by the Food and Drug Administration for general distribution and bears the legend: "Caution: Federal law prohibits dispensing without prescription," and (2) any drug which, pursuant to the Board's regulations, may be sold only by prescription because the Board has found those drugs to be dangerous to public health or safety.

24. Pursuant to NRS 454.316 and NRS 454.321, it is unlawful to possess, dispense or furnish a dangerous drug except when furnished to the person by a pharmacist pursuant to a legal prescription from a practitioner.

25. Pursuant to NRS 454.009, a "hypodermic" device is any syringe, needle, instrument, device or implement intended or capable of being adapted for the purpose of administering drugs by subcutaneous, intramuscular or intravenous injection.

26. Pursuant to NRS 454.510, it is unlawful for any person to have in his or her possession or under his or her control any hypodermic device that is restricted by federal law to sale by or on the order of a physician, unless the person has acquired possession of such device in accordance with the provisions of NRS 454.480 to 454.530, inclusive, that is, by sale from a licensed pharmacist, on the prescription of a physician or other practitioner, which prescription is filled as required by NRS 639.236, and may be refilled as authorized by the prescriber.

27. Accordingly, pursuant to NRS 454.009, 454.201, 454.316, 454.321 and 454.510, any person who is not a practitioner as defined in NRS 639.0125 is not permitted by Nevada law to possess, control, access, prescribe, administer, and/or dispense dangerous drugs or hypodermic devices, except as a medical assistant under the direct supervision of a Nevada licensed physician, physician assistant, or other licensed medical professional, and then, only if otherwise permitted and in compliance with laws of regulating pharmacies and pharmaceuticals.

28. NAC 639.742(1) provides that a practitioner who wishes to dispense controlled substances or dangerous drugs must apply to the Pharmacy Board for a certificate of registration to

dispense controlled substances or dangerous drugs. A practitioner must submit a separate application for each site of practice, including, without limitation, any remote site or satellite consultation site, from which the practitioner wishes to dispense controlled substances or dangerous drugs.

29. NAC 639.742(2) provides that if a facility from which the practitioner intends to dispense dangerous drugs or controlled substances is not wholly owned and operated by the practitioner, the owner or owners of the facility must also submit an application to the Pharmacy Board for a license to do so.

30. NAC 639.742(3) provides in pertinent part that a dispensing practitioner and, if applicable, the owner or owners of the facility, shall ensure that:

> . . . (b) All drugs are received and accounted for by the dispensing practitioner;
>
> (c) All drugs are stored in a secure, locked room or cabinet to which the dispensing practitioner has the only key or lock combination;
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> (d) All drugs are dispensed in accordance with NAC 639.745[4];

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[4] NAC 639.745 Duties of certain practitioners concerning dispensing of controlled substances and dangerous drugs. (NRS 639.070, 639.0727)

1. Each practitioner who is registered with the Board to dispense controlled substances and dangerous drugs, including, without limitation, a dispensing practitioner, and who dispenses such products for use by the practitioner's patients outside his or her presence shall:

(a) Keep complete, accurate and readily retrievable records of each controlled substance and dangerous drug purchased and dispensed. The record for each such product dispensed to a patient must include:

(1) The name of the patient and, if not readily available from the practitioner's records, the patient's address;
(2) The name, strength and quantity of the prescribed controlled substance or dangerous drug;
(3) The directions for use;
(4) The date the prescription was issued; and
(5) A unique identifying number.

(b) Maintain a separate file for the records concerning the purchase of each controlled substance listed in schedule II and a separate file for the records concerning the dispensing of each controlled substance listed in schedule II. Each prescription for a controlled substance or dangerous drug must be maintained in a separate file pursuant to the requirements set forth in NAC 453.480.

(c) Keep all controlled substances and dangerous drugs in a locked storage area. Access to the storage area must be restricted to the persons described in NRS 453.375.

(d) Ensure that each package or container in which a controlled substance is dispensed, except samples in the manufacturer's packages, is clearly labeled pursuant to the requirements set forth in NRS 639.2801.

(e) Ensure that the package or container in which a controlled substance or dangerous drug is dispensed complies with all state and federal packaging requirements.

(f) Be deemed to be a pharmacy as that term is used in NAC 639.926 and shall comply with that section.

2. A practitioner may dispense dangerous drugs or controlled substances only after the patient has been informed by the practitioner that the patient may request a written prescription and have it filled at another location of the patient's choosing.

> (e) No prescription is dispensed to a patient unless the dispensing practitioner is on-site at the facility;
>
> (f) All drugs are dispensed only to the patient personally at the facility;
>
> . . . (h) All drugs are dispensed only for medically necessary purposes and according to prevailing standards of care for practitioners practicing in the specialty claimed or practiced by the dispensing practitioner; and
>
> (i) The certificate for each dispensing technician employed at the facility is displayed in the room or cabinet in which drugs are stored.

31. NAC 639.742(4)(a)-(b) provide, in-part, with regard to the filling and dispensing of prescriptions at a facility, only the dispensing practitioner or a dispensing technician may enter the locked room or cabinet in which drugs are stored and/or remove drugs from stock.

32. NAC 639.945(1) provides in pertinent part that the following acts or practices by a holder of any license, certificate or registration issued by the Pharmacy Board or any employee of any business holding any such license, certificate or registration are declared to be, specifically but not by way of limitation, unprofessional conduct and conduct contrary to the public interest:

> ...(g) Supplying or diverting drugs, biologicals, medicines, substances or devices which are legally sold in pharmacies or by wholesalers, so that unqualified persons can circumvent any law pertaining to the legal sale of such articles.
>
> . . . (i) Performing any of his or her duties as the holder of a license, certificate or registration issued by the Board, or as the owner of a business or an entity licensed by the Board, in an incompetent, unskillful or negligent manner.
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> . . . (n) Dispensing a drug as a dispensing practitioner to a patient with whom the dispensing practitioner does not have a bona fide therapeutic relationship.

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3. A record regarding the dispensing of a controlled substance or dangerous drug made and kept pursuant to this section must be maintained on paper or in a computer. If the record is:

(a) Maintained on paper, the record must:

(1) Include all the information required to be on the prescription pursuant to NRS 639.2353 and NAC 453.440;

(2) Set forth on the front of the prescription a certification initialed and dated by the patient that the patient has been informed by the practitioner in accordance with subsection 2 and that the patient has agreed to have the practitioner dispense the controlled substance or dangerous drug; and

(3) Be serially numbered and kept in numerical order in a single file for all dispensing practitioners, including, without limitation, physician assistants and advanced practice registered nurses, practicing at the same location.

(b) Maintained in a computer, the record must:

(1) Include all the information required to be on the prescription pursuant to NRS 639.2353 and NAC 453.440;

(2) Contain a certification, either in the computer or a separate paper document, initialed and dated by the patient that the patient has been informed by the practitioner in accordance with subsection 2 and that the patient has agreed to have the practitioner dispense the controlled substance or dangerous drug; and

(3) Be searchable for any item required by paragraph (a) of subsection 1 to be included in the record.

> (o) Prescribing a drug as a prescribing practitioner to a patient with whom the prescribing practitioner does not have a bona fide therapeutic relationship.

33. NAC 639.945(2) provides that the owner of any business or facility licensed, certified or registered by the Pharmacy Board is responsible for the acts of all personnel in his or her employ.

34. NAC 639.945(3) provides that, for purposes of applying Pharmacy Board regulations:

> [A] bona fide therapeutic relationship between the patient and practitioner shall be deemed to exist if the patient was examined in person, electronically or telephonically by the practitioner within the 6 months immediately preceding the date the practitioner dispenses or prescribes a drug to the patient and, as a result of the examination, the practitioner diagnosed a condition for which a given drug therapy is prescribed.

35. Accordingly, any physician or physician assistant who—whether by serving as a so-called "medical director" of, or by furnishing dangerous drugs or hypodermic devices to, or by some other relationship or circumstance with any "medical spa" wherein dangerous drugs or hypodermic devices are possessed, controlled, accessed, prescribed, administered, and/or dispensed—engages in conduct that violates any regulation adopted by the Pharmacy Board, including but not limited to NAC 639.742(1)-(3), (4)(a)-(b), or 639.945(1)-(3), has violated the Nevada Medical Practice Act and is subject to discipline by the Board.

II. THE PERTINENT HISTORY OF CRIMINAL AND UNPROFESSIONAL CONDUCT OF TAMMY LYNN HANKINS, PA-C

36. On or about March 1, 2012, in the Superior Court of the State of Arizona, in and for the County of Mohave (Arizona Court), in Case No. CR-2012-00287, a Grand Jury indicted Tammy Lynn Hankins (Hankins), a physician assistant who at that time held a license to practice medicine in the State of Arizona, on five (5) criminal counts of violations of Arizona law, including COUNT 1: FRAUDULENT SCHEMES AND ARTIFICES, CLASS 2 FELONY; COUNT 2: OBTAIN OR PROCURE THE ADMINISTRATION OF A NARCOTIC DRUG BY FRAUD, CLASS 3 FELONY; COUNT 3: OBTAINING A DANGEROUS DRUG BY FRAUD, CLASS 3 FELONY; COUNT 4: ATTEMPTED OBTAINING A DANGEROUS DRUG BY FRAUD, CLASS 4 FELONY; COUNT 5: ATTEMPTED OBTAINING A DANGEROUS DRUG BY FRAUD, CLASS 4 FELONY.

Hankins' Arizona Case History

37. On or about November 28, 2012, the Arizona Regulatory Board of Physician Assistants ("Arizona Board"), in Case No. PA-11-0127A, found Hankins, who had been the holder of a license to practice medicine as a physician assistant in the State of Arizona (License No. 2228), guilty of unprofessional conduct. Specifically, the Arizona Board found Hankins guilty with respect to two (2) patients, Patient JC and Patient MW, determining that Hankins deviated from the standard of care by inappropriately and excessively prescribing controlled substances to patients, risking addiction or overdose with a possible fatal outcome.

38. For the foregoing misconduct, the Arizona Board found Hankins guilty of unprofessional conduct pursuant to Arizona Revised Statute (ARS) §32-2501(18)(i) ("prescribing or dispensing controlled substances or prescription-only drugs for which the physician assistant is not approved or in excess of the amount authorized pursuant to this chapter"); ARS §32-2501(18)(j) ("any conduct or practice that is or might be harmful or dangerous to ·the health of a patient or the public"); ARS § 32-2501 (18)(p) ("failing or refusing to maintain adequate records on a patient"), and ARS § 32-2501(18)(z) ("failing to furnish legally requested information to the [Arizona Board] or its Investigator in a timely manner."). The Arizona Board also found that a practice restriction was needed in order to protect the public, and ordered that Hankins be issued a Letter of Reprimand, placed on probation for one (1) year with additional conditions and restrictions.

Arizona License Renewal by Hankins

39. Hankins's license to practice medicine as a physician assistant in the State of Arizona (License No. 2228) was due for renewal by June 1, 2013; Hankins did not renew, and her Arizona license expired by operation of law on May 20, 2014.

Arizona Criminal Conduct by Hankins

40. On or about September 14, 2013, the Arizona Court found that Hankins had knowingly, intelligently and voluntarily pled guilty to the offense of: COUNT 3: OBTAINING A DANGEROUS DRUG BY FRAUD, CLASS 3 FELONY. On or about October 2, 2013, the Arizona Court entered its judgment finding Hankins guilty of the foregoing charge, and sentenced Hankins to a suspended

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imposition of sentence and placing the Defendant on probation for a period of four (4) years commencing October 2, 2013, among other conditions of probation.

41. On or about January 17, 2014, pursuant to a Petition to Revoke Probation, the Arizona Court ordered that Hankins be held without bond pending hearing on said petition.

42. On or about August 11, 2014, the Arizona Court found Hankins guilty of violating her probation for the following crimes: OBTAINING A DANGEROUS DRUG BY FRAUD, CLASS 3 FELONY, and SEXUAL CONDUCT WITH A MINOR, CLASS 6 FELONY. For the first crime, Hankins was sentenced to two and one-half (2.5) years with the Arizona Department of Corrections, as a minimum sentence, to date from August 11, 2014, and was given credit for two hundred eight (208) days served prior to sentencing. For the second crime, Hankins was sentenced to one (1) additional year of incarceration, that sentence to run consecutive to the other.

43. Hankins was not licensed to practice medicine as a physician assistant in the State of Nevada before March 6, 2020.

44. Hankins does not hold an active Drug Enforcement Agency (DEA) registration, and has not held a valid registration since 2016. Hankins also does not hold and has never held an active license or registration with the Pharmacy Board.

III. RESPONDENT'S AIDING AND ABETTING THE UNLICENSED PRACTICE OF MEDICINE AT VIDA SPA, AND RELATED VIOLATIONS OF NEVADA PHARMACY LAWS

45. Vida Spa LLC, a Nevada Limited Liability Company, formed July 22, 2016, managed by Gisselle Platfoot ("Vida Spa"), and also doing business as "Vida Spa" and "Vita Medical Spa Las Vegas," is a self-described "medical spa" located at 3225 S Rainbow Blvd #107 and/or #206, Las Vegas, NV 89146.

46. At all times relevant to this Complaint, Vida Spa was licensed in Clark County, Nevada, under Clark County Business License No. 2003447.081-172, under the business category of "Cosmetology Establishment - Other Services." The owners listed under this license are Art Matrix, Inc. and Gisselle Platfoot.

47. At all times relevant to this Complaint, Vida Spa had no other business licenses except for the Clark County Business License No. 2003447.081-172.

48. Gisselle Platfoot, manager of Vida Spa, at all times relevant to this Complaint, did not hold a license to practice any healing art as a "provider of health care," as defined in NRS 629.031, from any occupational licensing board in the State of Nevada, and was not otherwise a practitioner as defined in NRS 639.0125.

49. Vida Spa is "a facility that provides health care, other than a medical facility" NRS 449.442. At all times relevant to this Complaint, neither Respondent, Hankins, Vida Spa, nor Gisselle Platfoot held a permit pursuant to NRS 449.442 to perform general anesthesia, conscious sedation or deep sedation. Additionally, neither Respondent, Hankins, Vida Spa, nor Gisselle Platfoot held a current accreditation by a nationally recognized organization approved by the State Board of Nevada Bureau of Healthcare Quality and Compliance.

50. At all times relevant to this Complaint, Vida Spa was not a "medical facility," as defined in NRS 449.0151, and not "the office" of a physician or physician assistant licensed pursuant to NRS chapter 630 or 633, qualified dentist, advanced practice registered nurse or podiatric physician, as provided in NRS 454.217.

51. On March 24, 2021, the Pharmacy Board issued a Citation and Order to Cease and Desist (Platfoot Citation) to Vida Spa and Gisselle Platfoot, whereby the Pharmacy Board determined that Vida Spa and Gisselle Platfoot were possessing, administering, prescribing and/or dispensing controlled substances and/or dangerous drugs for Nevada patients from Vida Spa in violation of federal and state law. Specifically, the Platfoot Citation states that Vida Spa and Gisselle Platfoot did not have a dispensing registration and are therefore prohibited from possessing, dispensing and/or administering controlled substances and/or dangerous drugs. The Platfoot Citation finds that Vida Spa and Gisselle Platfoot violated, attempted to violate, assisted or abetted in the violation of or conspired to violate, without limitation, NRS 453.226, NRS 453.316, NRS 453.321(1)(a), NRS 453.331 (l)(c)(d)(t)&(i), NRS 453.381(1), NRS 453.40l(l)(a), NRS 639.0727, NRS 639.100(1), NRS 639.23505, NRS 639.281, NRS 639.2813, NRS 639.310, NAC 639.742, 21 U.S.C. § 822(a)(2), 21 U.S.C. § 823(f), 21 U.S.C. § 84l(a), 21 U.S.C. § 842(a), 21 U.S.C. § 846 and 21 CFR §§ 1306.03-1306.05. The Platfoot Citation orders Vida Spa and Gisselle Platfoot, pursuant to NRS 639.2895(1), to immediately cease and desist possessing, administering,

prescribing and/or dispensing controlled substances for Nevada patients, and also assessed an administrative fine of five thousand dollars ($5,000.00) pursuant to NRS 639.2895(3).

52. Respondent was the so-called "medical director" of Vida Spa, from on or about May 29, 2020, through on or about July 1, 2020, for which service Respondent agreed to receive compensation from Vida Spa of three thousand dollars ($3,000) per month, and agreed to commit only one day of service per month to Vida Spa.

53. Based on misrepresentations made to Respondent by Gisselle Platfoot, Respondent understood that Vida Spa was a properly licensed and permitted medical facility, and that his role at Vida Spa was supposed to be limited to that of a consultant, and that all cosmetic procedures performed at Vida spa were non-invasive and being performed by properly licensed individuals. Respondent took no action to verify the misrepresentations of Gisselle Platfoot before agreeing to be medical director of Vida Spa.

54. Respondent entered into a written agreement with Vida Spa on or about May 29, 2020, before specifying a "start date" when Respondent would make a first visit to Vida Spa.

55. During Respondent's service as medical director of Vida Spa, which was licensed only as a "cosmetology establishment," Hankins, Gisselle Platfoot, and Vida Spa's employees and agents provided medical treatment and/or prescriptions and/or administered dangerous drugs and hypodermic devices and/or dispensed dangerous drugs and hypodermic devices to at least four (4) patients, as set forth below, which conduct by Hankins, Gisselle Platfoot and Vida Spa's employees and agents constitutes the practice of medicine in Nevada:

PATIENT A

56. Patient A was a twenty-nine (29) year-old female at the time of the events at issue.

57. At all times relevant to the treatment of Patient A, Respondent was the so-called "medical director" of Vida Spa.

58. At all times relevant to Hankins's treatment of Patient A, Hankins did not have a supervising physician, and did not have a supervising physician agreement on file with and accepted

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by the Board, and was therefore expressly prohibited from performing medical services pursuant to NAC 630.375(2).

59. The medical services rendered to Patient A by Hankins did not occur in a life-threatening or emergency situation.

60. On June 1, 2020, Hankins, who did not have her own DEA registration and controlled substance license issued by the NSBOP, utilized Respondent's prescribing credentials to issue prescriptions to Patient A for Oxycodone-acetaminophen (a Schedule II Controlled Substance) 5-325 mg tablets, 12 ct. for 3 days; Alprazolam (a Schedule IV Controlled Substance) 1 mg tablets, 4 ct. for 2 days; Promethazine 25 mg tablets, 10 ct. for 2 days, Sulfameth/Trimethprim 800/160 mg tablets, 20 ct. for 10 days.

61. Hankins, or a Vida Spa employee or agent acting at Hankins's direction, presented an already completed written prescription, with the patient's name and with the corresponding medications, quantities and doses filled-in, to Respondent, who then signed the prescription with the understanding that the controlled substances and dangerous drugs would then be used by Hankins on Patient A for the purpose of performing an invasive surgical procedure on Patient A.

62. The material purpose for prescribing the controlled substances to Patient A was conscious sedation and pain control for an invasive surgical procedure to be performed on Patient A.

63. Respondent's express purpose in signing the already completed written prescriptions for controlled substances for Patient A was to offer conscious sedation and pain control to Patient A for the invasive surgical procedure to be performed on Patient A by Hankins at Vida Spa.

64. The written prescription issued for Patient A in this manner was then presented to Pharmacy Santa Maria, at 3827 E. Sunset Rd, Ste L, Las Vegas, Nevada 89120, which filled the prescription, and the controlled substances and dangerous drugs were then delivered directly to Vida Spa. The controlled substances and dangerous drugs were accepted at Vida Spa by Hankins, or by a Vida Spa employee or agent acting at Hankins's direction, and then administered to Patient A by Hankins, or by a Vida Spa employee or agent supervised directly by Hankins.

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65. Hankins, a Vida Spa employee or agent acting at Hankins's direction in the Hankins's presence, or Patient A at the direction and in the presence of Hankins, directly administered to Patient A the controlled substances, Alprazolam and Oxycodone-acetominophen, by ingestion.

66. Respondent did not see or treat Patient A, and did not direct or supervise Hankins in her treatment of Patient A.

67. On June 2, 2020, at Vida Spa, Hankins performed a liposuction procedure on the upper and lower abdomen and arms of Patient A, and a fat grafting procedure to Patient A's breasts. Hankins administered tumescent anesthesia with Lidocaine and Epinephrine to Patient A, which Hankins obtained, without a patient-specific prescription or an order from a licensed practitioner or a practitioner otherwise authorized to perform medical services for Patient A, from a general store of controlled substances and dangerous drugs obtained and maintained by Vida Spa in violation of federal and state law.

68. Hankins was not supervised by any licensed physician while performing this invasive surgical procedure on Patient A at Vida Spa.

PATIENT B

69. Patient B was a forty (40) year-old female at the time of the events at issue.

70. At all times relevant to the treatment of Patient B, Respondent was the so-called "medical director" of Vida Spa.

71. At all times relevant to Hankins's treatment of Patient B, Hankins did not have a supervising physician, and did not have a supervising physician agreement on file with and accepted by the Board, and was therefore expressly prohibited from performing medical services pursuant to NAC 630.375(2).

72. The medical services rendered to Patient B by Hankins did not occur in a life-threatening or emergency situation.

73. On June 2, 2020, Hankins, who did not have her own DEA registration and controlled substance license issued by the NSBOP, utilized Respondent's prescribing credentials to issue prescriptions to Patient B for Oxycodone-acetaminophen (a Schedule II Controlled Substance)

5-325 mg tablets, 12 ct. for 3 days; Alprazolam (a Schedule IV Controlled Substance) 1 mg tablets, 4 ct. for 2 days; Promethazine 25 mg tablets, 10 ct. for 2 days, Sulfameth/Trimethprim 800/160 mg tablets, 20 ct. for 10 days.

74. Hankins, or a Vida Spa employee or agent acting at Hankins's direction, presented an already completed written prescription, with the patient's name and with the corresponding medications, quantities and doses filled-in, to Respondent, who then signed the prescription with the understanding that the controlled substances and dangerous drugs would then be used by Hankins on Patient B for the purpose of performing an invasive surgical procedure on Patient B.

75. The material purpose for prescribing the controlled substances to Patient B was conscious sedation and pain control for an invasive surgical procedure to be performed on Patient B.

76. Respondent's express purpose in signing the already completed written prescriptions for controlled substances for Patient B was to offer conscious sedation and pain control to Patient B for the invasive surgical procedure to be performed on Patient B by Hankins at Vida Spa.

77. The written prescription issued for Patient B in this manner was then presented to Pharmacy Santa Maria, at 3827 E. Sunset Rd, Ste L, Las Vegas, Nevada 89120, which filled the prescription, and the controlled substances and dangerous drugs were then delivered directly to Vida Spa. The controlled substances and dangerous drugs were accepted at Vida Spa by Hankins, or by a Vida Spa employee or agent acting at Hankins's direction, and then administered to Patient B by Hankins, or by a Vida Spa employee or agent supervised directly by Hankins.

78. Hankins, a Vida Spa employee or agent acting at Hankins's direction in the Hankins's presence, or Patient B at the direction and in the presence of Hankins, directly administered to Patient B the controlled substances, Alprazolam and Oxycodone-acetaminophen, by ingestion.

79. Respondent did not see or treat Patient B, and did not direct or supervise Hankins in her treatment of Patient B.

80. On June 3, 2020, at Vida Spa, Hankins performed a liposuction procedure on Patient B. Hankins administered tumescent anesthesia with Lidocaine and Epinephrine to Patient B,

which Hankins obtained, without a patient-specific prescription or an order from a licensed practitioner or a practitioner otherwise authorized to perform medical services for Patient B, from a general store of controlled substances and dangerous drugs obtained and maintained by Vida Spa in violation of federal and state law.

81. Hankins was not supervised by any licensed physician while performing this invasive surgical procedure on Patient B at Vida Spa.

PATIENT C

82. Patient C was a thirty-five (35) year-old female at the time of the events at issue.

83. At all times relevant to the treatment of Patient C, Respondent was the so-called "medical director" of Vida Spa.

84. At all times relevant to Hankins's treatment of Patient C, Hankins did not have a supervising physician, and did not have a supervising physician agreement on file with and accepted by the Board, and was therefore expressly prohibited from performing medical services pursuant to NAC 630.375(2).

85. The medical services rendered to Patient C by Hankins did not occur in a life-threatening or emergency situation.

86. On June 3, 2020, Hankins, who did not have her own DEA registration and controlled substance license issued by the NSBOP, utilized Respondent's prescribing credentials to issue prescriptions to Patient C for Oxycodone-acetaminophen (a Schedule II Controlled Substance) 5-325 mg tablets, 12 ct. for 3 days; Alprazolam (a Schedule IV Controlled Substance) 1 mg tablets, 4 ct. for 2 days; Promethazine 25 mg tablets, 10 ct. for 2 days, Sulfameth/Trimethprim 800/160 mg tablets, 20 ct. for 10 days.

87. Hankins, or a Vida Spa employee or agent acting at Hankins's direction, presented an already completed written prescription, with the patient's name and with the corresponding medications, quantities and doses filled-in, to Respondent, who then signed the prescription with the understanding that the controlled substances and dangerous drugs would then be used by Hankins on Patient C for the purpose of performing an invasive surgical procedure on Patient C.

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88. The material purpose for prescribing the controlled substances to Patient C was conscious sedation and pain control for an invasive surgical procedure to be performed on Patient C.

89. Respondent's express purpose in signing the already completed written prescriptions for controlled substances for Patient C was to offer conscious sedation and pain control to Patient C for the invasive surgical procedure to be performed on Patient C by Hankins at Vida Spa.

90. The written prescription issued for Patient C in this manner was then presented to Pharmacy Santa Maria, at 3827 E. Sunset Rd, Ste L, Las Vegas, Nevada 89120, which filled the prescription, and the controlled substances and dangerous drugs were then delivered directly to Vida Spa. The controlled substances and dangerous drugs were accepted at Vida Spa by Hankins, or by a Vida Spa employee or agent acting at Hankins's direction, and then administered to Patient C by Hankins, or by a Vida Spa employee or agent supervised directly by Hankins.

91. Hankins, a Vida Spa employee or agent acting at Hankins's direction in the Hankins's presence, or Patient C at the direction and in the presence of Hankins, directly administered to Patient C the controlled substances, Alprazolam and Oxycodone-acetaminophen, by ingestion.

92. Respondent did not see or treat Patient C, and did not direct or supervise Hankins in her treatment of Patient C.

93. On June 4, 2020, at Vida Spa, Hankins performed a liposuction procedure on the upper back and flanks of Patient C. On information and belief, Hankins administered tumescent anesthesia with Lidocaine and Epinephrine to Patient C, which Hankins obtained, without a patient-specific prescription or an order from a licensed practitioner or a practitioner otherwise authorized to perform medical services for Patient C, from a general store of controlled substances and dangerous drugs obtained and maintained by Vida Spa in violation of federal and state law.

94. Hankins was not supervised by any licensed physician while performing this invasive surgical procedure on Patient C at Vida Spa.

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PATIENT D

95. Patient D was a forty (40) year-old female at the time of the events at issue.

96. At all times relevant to the treatment of Patient D, Respondent was the so-called "medical director" of Vida Spa.

97. At all times relevant to Hankins's treatment of Patient D, Hankins did not have a supervising physician, and did not have a supervising physician agreement on file with and accepted by the Board, and was therefore expressly prohibited from performing medical services pursuant to NAC 630.375(2).

98. The medical services rendered to Patient D by Hankins did not occur in a life-threatening or emergency situation.

99. On June 4, 2020, Hankins, who did not have her own DEA registration and controlled substance license issued by the NSBOP, utilized the Respondent's prescribing credentials to issue prescriptions to Patient D for Oxycodone-acetaminophen (a Schedule II Controlled Substance) 5-325 mg tablets, 12 ct. for 3 days; Alprazolam (a Schedule IV Controlled Substance) 1 mg tablets, 4 ct. for 2 days; Promethazine 25 mg tablets, 10 ct. for 2 days, Sulfameth/Trimethprim 800/160 mg tablets, 20 ct. for 10 days.

100. Hankins, or a Vida Spa employee or agent acting at Hankins's direction, presented an already completed written prescription, with the patient's name and with the corresponding medications, quantities and doses filled-in, to Respondent, who then signed the prescription with the understanding that the controlled substances and dangerous drugs would then be used by Hankins on Patient D for the purpose of performing an invasive surgical procedure on Patient D.

101. The material purpose for prescribing the controlled substances to Patient D was conscious sedation and pain control for an invasive surgical procedure to be performed on Patient D.

102. Respondent's express purpose in signing the already completed written prescriptions for controlled substances for Patient D was to offer conscious sedation and pain control to Patient D for the invasive surgical procedure to be performed on Patient D by Hankins at Vida Spa.

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103. The written prescription issued for Patient D in this manner was then presented to Pharmacy Santa Maria, at 3827 E. Sunset Rd, Ste L, Las Vegas, Nevada 89120, which filled the prescription, and the controlled substances and dangerous drugs were then delivered directly to Vida Spa. The controlled substances and dangerous drugs were accepted at Vida Spa by Hankins, or by a Vida Spa employee or agent acting at Hankins's direction, and then administered to Patient D by Hankins, or by a Vida Spa employee or agent supervised directly by Hankins.

104. Hankins, a Vida Spa employee or agent acting at Hankins's direction in the Hankins's presence, or Patient D at the direction and in the presence of Hankins, directly administered to Patient D the controlled substances, Alprazolam and Oxycodone-acetominophen, by ingestion.

105. Respondent did not see or treat Patient D, and did not direct or supervise Hankins in her treatment of Patient D.

106. On June 5, 2020, at Vida Spa, Hankins performed a liposuction procedure on the abdomen, flanks back and "bra straps" of Patient D, and a fat transfer to the buttocks of Patient D. Hankins administered tumescent anesthesia with Lidocaine and Epinephrine to Patient D, which Hankins obtained, without a patient-specific prescription or an order from a licensed practitioner or a practitioner otherwise authorized to perform medical services for Patient D, from a general store of controlled substances and dangerous drugs obtained and maintained by Vida Spa in violation of federal and state law.

107. Hankins was not supervised by any licensed physician while performing this invasive surgical procedure on Patient D at Vida Spa.

IV. RESPONDENT'S MEDICAL DIRECTORSHIP OF VIDA SPA

108. At all times relevant to this Complaint, Hankins did not consult with Respondent regarding any procedures she performed or participated in while Respondent was medical director of Vida Spa.

109. At all times relevant to this Complaint, Respondent was not present during any procedures she performed.

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110. At all times relevant to this Complaint, Respondent was not present at Vida Spa during its regular business hours, nor during any times relevant to this Complaint.

111. Despite Hankins's public history of criminal and unprofessional conduct, and incarceration, Respondent, as medical director of Vida Spa, did not investigate or exercise ordinary and reasonable diligence to determine whether Hankins was authorized to practice medicine at Vida Spa, and took no action to prohibit the unlicensed practice of medicine at Vida Spa by Hankins, Gisselle Platfoot, and Vida Spa's employees and agents.

112. Respondent was an independent contractor of Vida Spa.

113. Respondent was not a manager, officer or employee of Vida Spa.

114. Respondent had no ownership or member interest in Vida Spa, nor did he have authority, by contract or otherwise, to manage the affairs of Vida Spa.

115. Neither Gisselle Platfoot nor any of Vida Spa's employees, agents or other independent contractors were employed by Respondent during the time Respondent served as medical director of Vida Spa.

116. Respondent has held a valid controlled substance registration issued by the Pharmacy Board (License No. CS09487) since July 1, 1998.

117. At all times relevant to this Complaint, Respondent did not hold a dispensing practitioner license issued by the Pharmacy Board.

118. Respondent did not apply to the Pharmacy Board for a certificate of registration to dispense controlled substances or dangerous drugs at Vida Spa.

119. While medical director of Vida Spa, Respondent permitted Gisselle Platfoot and Vida Spa's employees and agents to utilize his medical license and controlled substance registration to prescribe and procure dangerous drugs and controlled substances, which are available only by prescription, for customers of Vida Spa and use by Gisselle Platfoot and Vida Spa's employees and agents in providing medical services to patients at Vida Spa.

120. While medical director of Vida Spa, Respondent permitted dangerous drugs and controlled substances to be left unlocked and readily accessible at Vida Spa in the sole possession,

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custody and control of Gisselle Platfoot and Vida Spa's employees and agents, and beyond the supervision or restraint of Respondent.

121. All of the dangerous drugs and controlled substances left in the custody and control of Gisselle Platfoot and Vida Spa's employees and agents were at no time stored in a secure, locked room or cabinet accessible only by Respondent. Gisselle Platfoot and Vida Spa's employees and agents had unrestricted access to dangerous drugs, controlled substances, hypodermic devices and other dangerous medical devices and poisonous substances.

122. Gisselle Platfoot and Vida Spa's employees and agents possessed, controlled, stored, prescribed, administered and/or dispensed controlled substances, dangerous drugs and hypodermic devices without a dispensing license as required by the Pharmacy Board.

123. Respondent was not present when Hankins, Gisselle Platfoot, and Vida Spa's employees and agents possessed, controlled, stored, prescribed, administered and/or dispensed controlled substances, dangerous drugs and hypodermic devices obtained using Respondent's medical license and controlled substance registration.

124. Respondent neither received nor accounted for the controlled substances, dangerous drugs and hypodermic devices possessed, controlled, stored, prescribed, administered and/or dispensed by Gisselle Platfoot and Vida Spa's employees and agents.

125. Respondent did not see, examine, diagnose or otherwise have a bona fide therapeutic relationship with any of the four (4) patients to whom Hankins, Gisselle Platfoot, and Vida Spa's employees and agents provided medical treatment(s) and/or prescriptions and/or administered dangerous drugs and hypodermic devices and/or dispensed dangerous drugs and hypodermic devices.

126. Respondent was not on-site at Vida Spa or otherwise immediately available when Hankins, Gisselle Platfoot, and Vida Spa's employees or agents provided medical treatment and/or issued prescriptions for, administered and dispensed controlled substances, dangerous drugs and hypodermic devices to these four (4) patients.

127. Respondent did not personally administer or dispense at Vida Spa, or personally direct any of Gisselle Platfoot, Hankins or any other of Vida Spa's employees or agents to

administer or dispense at Vida Spa, and did not exercise sufficient control of Vida Spa operations to ensure that dangerous drugs and controlled substances were administered and dispensed only for medically necessary purposes and according to prevailing standards of care.

128. Respondent supplied controlled substances, dangerous drugs and hypodermic devices to Gisselle Platfoot, Hankins, and Vida Spa's employees or agents and permitted unqualified persons to circumvent laws pertaining to the legal sale of such articles, and allowed others to utilize his medical credentials and controlled substance registration to administer, dispense and prescribe controlled substances, dangerous drugs and hypodermic devices to those whom he did not have a bona fide therapeutic relationship.

129. Respondent failed to ensure that he had the required ownership or employment relationship with respect to Vida Spa and its employees and agents to comply with the requirements of NAC 630.800-830.

130. Respondent failed to ensure that he had the legal and practical control of Vida Spa's operations to effectively control the conduct of Hankins, Gisselle Platfoot and Vida Spa's employees and agents in performance of all medical activities as his medical assistants or otherwise, in order to prevent prohibited conduct and ensure that his medical assistants possessed the knowledge, skill and training to perform their tasks safely and properly.

COUNT I

NRS 630.306(1)(b)(3) – Engaging in Conduct that Violates Pharmacy Board Regulations

131. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

132. NRS 630.306(1)(b)(3) provides that engaging in conduct that violates a regulation adopted by the Pharmacy Board is grounds for initiating disciplinary action or denying licensure.

133. Including but not limited to the conduct described herein, Respondent engaged in conduct that violates regulations adopted by the Pharmacy Board, specifically including but not limited to, NAC 639.742(1)-(3), (4)(a)-(b), 639.945(1)-(3), and NAC 639.742(1).

134. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

COUNT II

NRS 630.3062(1)(h) – Unauthorized and Otherwise Inappropriate Prescribing of Controlled Substances

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

136. Pursuant to NRS 630.3062(1)(h), fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, administering or dispensing of a controlled substance listed in schedule II, III or IV is grounds for disciplinary action or denying licensure.

137. As demonstrated by, but not limited to, the above-outlined facts, Respondent issued unauthorized and otherwise inappropriate prescriptions for schedule II and IV controlled substances, Oxycodone-acetaminophen and Alprazolam, respectively, to Patients A, B, C and D by signing prescriptions for controlled substances for patients he did not see, examine or diagnose, and with whom he did not have a bona fide therapeutic relationship.

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

COUNT III

NRS 630.306(1)(r) – Failure to Supervise Medical Assistants

139. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

140. Pursuant to NRS 630.306(1)(r), failure to supervise adequately a medical assistant pursuant to the regulations of the Board is grounds for discipline or denying licensure.

141. Pursuant to NAC 630.230(1)(g), a physician shall not allow any person to act as a medical assistant in the treatment of a patient of the physician, unless the medical assistant has sufficient training to provide the assistance.

142. Pursuant to NAC 630.230(1)(h), a physician shall not fail to provide adequate supervision of a medical assistant who is employed or supervised by the physician, including, without limitation, supervision provided in the manner described in NAC 630.810 or 630.820.

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143. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed to supervise adequately medical assistants at Vida Spa in violation of NAC 630.230(1)(g) and (h), and NAC 630.810 or 630.820.

144. 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);

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 11th day of August, 2021.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

AARON B. FRICKE, ESQ.
General Counsel
9600 Gateway Drive
Reno, Nevada 89521
Tel: (702) 486-3813
Email: africke@medboard.nv.gov
Attorney for the Investigative Committee

VERIFICATION

STATE OF NEVADA)
: ss.
COUNTY OF CLARK)

Victor M. Muro, 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 11 day of August, 2021.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: V M Muro MD

VICTOR M. MURO, M.D.
Chairman of the Investigative Committee

CERTIFICATE OF SERVICE

I hereby certify that I am employed by the Nevada State Board of Medical Examiners and that on the 11th day of August, 2021, I served a file-stamped copy of the foregoing **COMPLAINT**, via U.S. Certified Mail to the following parties:

Salvador Garcia Borromeo, M.D.
c/o Laurence J. Weinsteen, Esq.
Larry Jordan Weinsteen CHTD.
3225 McLeod Drive, Ste. 100
Las Vegas, NV 89121
Certified Mail Receipt No.: 9171 9690 0935 0252 1561 87

DATED this 11th day of August, 2021.

MERCEDES FUENTES
Legal Assistant
Nevada State Board of Medical Examiners

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

EXHIBIT 106

EXHIBIT 106

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **SALVADOR GARCIA BORROMEO, M.D.,** **Respondent.**	**Case No. 21-12423-1** FILED SEP 10 2021 NEVADA STATE BOARD OF MEDICAL EXAMINERS By:

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

SETTLEMENT AGREEMENT

The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board), by and through Aaron B. Fricke, Esq., General Counsel for the Board and attorney for the IC, and Salvador Garcia Borromeo, M.D. (Respondent), a licensed physician in Nevada, assisted by his attorney, Laurence J. Weinsteen, of the Law Offices of Larry Jordan Weinsteen Chtd., hereby enter into this Settlement Agreement (Agreement) based on the following:[1]

A. BACKGROUND

1. Respondent is a medical doctor currently licensed in active status by the Board pursuant to Chapter 630 of the Nevada Revised Statutes (NRS) and Chapter 630 of the Nevada Administrative Code (NAC) (collectively, the Medical Practice Act). His license was originally issued on August 24, 1998 (License No. 8770).

2. On August 11, 2021, in Case No. 21-12423-1, the IC filed a formal Complaint (Complaint) charging Respondent with violating the Medical Practice Act. Specifically, the Complaint alleges as follows: Count I, violation of NRS 630.306(1)(b)(3), Engaging in Conduct that Violates Pharmacy Board Regulations; Count II, violation of NRS 630.3062(1)(h), Unauthorized and Otherwise Inappropriate Prescribing of Controlled Substances; and Count III, violation of NRS 630.306(1)(r), Failure to Supervise Medical Assistants.

[1] All agreements and admissions made by Respondent are solely for final disposition of these matters and any subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, Respondent's agreements and admissions are not intended or made for any other use, such as in the context of another state or federal government regulatory agency proceeding, state or federal civil or criminal proceeding, any state or federal court proceeding, or any credentialing or privileges matter.

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

4. Respondent was properly served with a copy of the Complaint, has reviewed and understands the Complaint, and has had the opportunity to consult with competent counsel concerning the nature and significance of the Complaint.

5. Respondent is hereby advised of his rights regarding these administrative matters, and of his opportunity to defend against the allegations in the Complaint. Specifically, Respondent has certain rights in these administrative matters as set out by the United States Constitution, the Nevada Constitution, the Medical Practice Act, the Nevada Open Meeting Law (OML), which is contained in NRS Chapter 241, and the Nevada Administrative Procedure Act (APA), which is contained in NRS Chapter 233B. These rights include the right to a formal hearing on the allegations in the Complaint, the right to representation by counsel, at his own expense, in the preparation and presentation of his defense, the right to confront and cross-examine the witnesses and evidence against him, the right to written findings of fact, conclusions of law and order reflecting the final decision of the Board, and the right to judicial review of the Board's order, if the decision is adverse to him.

6. Respondent understands that, under the Board's charge to protect the public by regulating the practice of medicine, the Board may take disciplinary action against Respondent's license, including license probation, license suspension, license revocation and imposition of administrative fines, as well as any other reasonable requirement or limitation, if the Board concludes that Respondent violated one or more provisions of the Medical Practice Act.

7. Respondent understands and agrees that this Agreement, by and between Respondent and the IC, is not with the Board, and that the IC will present this Agreement to the Board for consideration in open session at a duly noticed and scheduled meeting. Respondent understands that the IC shall advocate for the Board's approval of this Agreement, but that the Board has the right to decide in its own discretion whether or not to approve this Agreement. Respondent further understands and agrees that if the Board approves this Agreement, then the terms and conditions enumerated below shall be binding and enforceable upon him and the Board.

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

B. TERMS & CONDITIONS

NOW, THEREFORE, in order to resolve the matters addressed herein, i.e., the matters with regard to the Complaint, Respondent and the IC hereby agree to the following terms and conditions:

1. Jurisdiction. Respondent is, and at all times relevant to the Complaint has been, a physician licensed to practice medicine in Nevada subject to the jurisdiction of the Board as set forth in the Medical Practice Act.

2. Representation by Counsel/Knowing, Willing and Intelligent Agreement. Respondent acknowledges he is represented by counsel, and wishes to resolve the matters addressed herein with said counsel. Respondent agrees that if representation by counsel in this matter materially changes prior to entering into this Agreement and for the duration of this Agreement, that counsel for the IC will be timely notified of the material change. Respondent agrees that he knowingly, willingly and intelligently enters into this Agreement after deciding to have a full consultation with and upon the advice of legal counsel.

3. Waiver of Rights. In connection with this Agreement, and the associated terms and conditions, Respondent knowingly, willingly and intelligently waives all rights in connection with these administrative matters. Respondent hereby knowingly, willingly and intelligently waives all rights arising under the United States Constitution, the Nevada Constitution, the Medical Practice Act, the OML, the APA, and any other legal rights that may be available to him or that may apply to him in connection with the administrative proceedings resulting from the Complaint filed in this matter, including defense of the Complaint, adjudication of the allegations set forth in the Complaint, and imposition of any disciplinary actions or sanctions ordered by the Board. Respondent agrees to settle and resolve the allegations of the Complaint as set out by this Agreement, without a hearing or any further proceedings and without the right to judicial review.

4. Acknowledgement of Reasonable Basis to Proceed. Respondent acknowledges that the IC believes it has a reasonable basis to allege that Respondent engaged in conduct that is grounds for discipline pursuant to the Medical Practice Act. The IC acknowledges that Respondent is agreeing to resolve this matter to avoid the costs of hearing and potential

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subsequent litigation. Respondent asserts that if these matters were to proceed to hearing, he has evidence, witnesses, expert witness(es) and defenses to the count/claim alleged in the Complaint, but for the purposes of resolving these matters and for no other purpose, Respondent waives the presentation of evidence, witnesses, expert witnesses, and defenses in order to effectuate this Agreement.

5. Consent to Entry of Order. In order to resolve the Complaint pending against Respondent, Respondent hereby agrees that the Board may issue an order finding that Respondent engaged in conduct that is grounds for discipline pursuant to the Medical Practice Act. Accordingly, the following terms and conditions are hereby agreed upon:

a. Respondent admits to Count I, violation of NRS 630.306(1)(b)(3), Engaging in Conduct that Violates Pharmacy Board Regulations, Count II, violation of NRS 630.3062(1)(h), Unauthorized and Otherwise Inappropriate Prescribing of Controlled Substances, and Count III, violation of NRS 630.306(1)(r), Failure to Supervise Medical Assistants, as alleged in the Complaint.

b. Respondent shall pay a fine in the amount of five thousand dollars ($5,000) within sixty (60) days of the Board's acceptance, adoption and approval of this Agreement.

c. Respondent shall pay the costs and expenses incurred in the investigation and prosecution of the above-referenced matter within sixty (60) days of the Board's acceptance, adoption and approval of this Agreement, in the amount of one thousand four hundred fifty-two dollars and twenty-two cents ($1,452.22).

d. This Agreement shall be reported to the appropriate entities and parties as required by law, including, but not limited to, the National Practitioner Data Bank.

e. Respondent shall receive a Public Letter of Reprimand.

f. The remaining counts of the Complaint, if any, and any other claims arising from the Board's corresponding investigative case file(s), shall be dismissed with prejudice.

6. Release From Liability. In execution of this Agreement, Respondent understands and agrees that the State of Nevada, the Board, and each of its members, staff, counsel, investigators, experts, peer reviewers, committees, panels, hearing officers, consultants and agents

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(775) 688-2559

are immune from civil liability for any decision or action taken in good faith in response to information acquired by the Board. NRS 630.364(2)(a). Respondent agrees to release the State of Nevada, the Board, and each of its members, staff, counsel, investigators, experts, peer reviewers, committees, panels, hearing officers, consultants and agents from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims and demands whatsoever, known and unknown, in law or equity, that Respondent ever had, now has, may have or claim to have, against any or all of the persons, government agencies or entities named in this paragraph arising out of, or by reason of, this investigation, this Agreement or the administration of the case referenced herein.

7. Procedure for Adoption of Agreement The IC and counsel for the IC shall recommend approval and adoption of the terms and conditions of this Agreement by the Board in resolution of the Complaint at an upcoming Board meeting at the Board's earliest convenience, and Respondent hereby waives notice of the same, whether under the United States Constitution, the Nevada Constitution, the Medical Practice Act, the OML, the APA, or otherwise. In the course of seeking Board acceptance, approval and adoption of this Agreement, counsel for the IC may communicate directly with the Board staff and the adjudicating members of the Board.

Respondent acknowledges that such contacts and communications may be made or conducted ex parte, without notice or opportunity to be heard on his part until the public Board meeting where this Agreement is discussed, and that such contacts and communications may include, but may not be limited to, matters concerning this Agreement, the Complaint and any and all information of every nature whatsoever related to these matters. The IC and its counsel agree that Respondent and/or Counsel for the Respondent may appear at the Board meeting where this Agreement is discussed and, if requested, respond to any questions that may be addressed to the IC or the IC's counsel.

8. Effect of Acceptance of Agreement by Board. In the event the Board accepts, approves and adopts this Agreement, the Board shall issue a final order, making this Agreement an order of the Board, and, pending full compliance with the terms herein, the case shall be closed and any and all remaining claims arising out of the Complaint shall be dismissed with prejudice.

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

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

9. Effect of Rejection of Agreement by Board. In the event the Board does not accept, approve and adopt this Agreement, this Agreement shall be null, void and of no force and effect except as to the following agreement regarding adjudications: (1) Respondent agrees that, notwithstanding rejection of this Agreement by the Board, nothing contained in this Agreement and nothing that occurs pursuant to efforts of the IC to seek the Board's acceptance of this Agreement shall disqualify any member of the adjudicating panel of the Board from considering the Complaint and from participating in disciplinary proceedings against Respondent, including adjudication of this case; and (2) Respondent further agrees that he shall not seek to disqualify any such member absent evidence of bad faith.

10. Binding Effect. If approved by the Board, Respondent understands that this Agreement is a binding and enforceable contract upon Respondent and the Board.

11. Forum Selection Clause. The parties agree that in the event either party is required to seek enforcement of this Agreement in district court, the parties consent to such jurisdiction and agree that jurisdiction shall be in the Second Judicial District Court, State of Nevada, Washoe County.

12. Attorneys' Fees and Costs. The parties agree that in the event an action is commenced in district court to enforce any provision of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

13. Failure to Comply With Terms. Should Respondent fail to comply with any term or condition of this Agreement once the Agreement has been accepted, approved and adopted by the Board, the IC shall be authorized to immediately suspend Respondent's license to practice medicine in Nevada pending an Order To Show Cause Hearing on revocation, which will be duly noticed. Failure to comply with the terms of this Agreement, including failure to pay any fines, costs, expenses or fees owed to the Board, is a failure to comply with an order of the Board, which may result in additional disciplinary action being taken against Respondent. NRS 630.3065(2)(a).

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///

///

Further, Respondent's failure to remit payment to the Board for monies agreed to be paid as a condition of this Agreement may subject Respondent to any civil and administrative collection efforts available.

DATED this 11th day of August, 2021.

INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

AARON B. FRICKE, J.D.
General Counsel
9600 Gateway Drive
Reno, NV 89521
Tel: (775) 688-2559
Email: africke@medboard.nv.gov
Attorney for the Investigative Committee

DATED this 6th day of August, 2021

LARRY JORDAN WEINSTEEN CHTD.

By: _____

LAURENCE J. WEINSTEEN, Esq.
3225 McLeod Drive, Ste. 100
Las Vegas, NV 89121
Tel: (702) 383-3330
Attorney for Respondent

DATED this 6 day of August, 2021.

By: _____

SALVADOR GARCIA BORROMEO, M.D.,
Nevada License No. 8770
Respondent

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

Further, Respondent's failure to remit payment to the Board for monies agreed to be paid as a condition of this Agreement may subject Respondent to any civil and administrative collection efforts available.

DATED this _____ day of _____, 2021.

INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

By:_____

AARON B. FRICKE, J.D.
General Counsel
9600 Gateway Drive
Reno, NV 89521
Tel: (775) 688-2559
Email: africke@medboard.nv.gov
Attorney for the Investigative Committee

DATED this 6th day of August, 2021

LARRY JORDAN WEINSTEEN CHTD.

By:_____

LAURENCE J. WEINSTEEN, Esq.
3225 McLeod Drive, Ste. 100
Las Vegas, NV 89121
Tel: (702) 383-3330
Attorney for Respondent

DATED this 6 day of August, 2021.

By: _____

SALVADOR GARCIA BORROMEO, M.D.,
Nevada License No. 8770
Respondent

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

ORDER

IT IS HEREBY ORDERED that, the foregoing Settlement Agreement (Case No. 21-12423-1) was approved and accepted by the Nevada State Board of Medical Examiners on the 10th day of September, 2021.

DATED this 10th day of September, 2021.

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____
VICTOR M. MURO, M.D.
Board President

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

EXHIBIT 107

EXHIBIT 107

American Society of
Anesthesiologists

Standards for Basic Anesthetic Monitoring

Committee of Origin: Standards and Practice Parameters

(Approved by the ASA House of Delegates on October 21, 1986, last amended on October 20, 2010, and reaffirmed on December 13, 2020)

These standards apply to all anesthesia care although, in emergency circumstances, appropriate life support measures take precedence. These standards may be exceeded at any time based on the judgment of the responsible anesthesiologist. They are intended to encourage quality patient care, but observing them cannot guarantee any specific patient outcome. They are subject to revision from time to time, as warranted by the evolution of technology and practice. They apply to all general anesthetics, regional anesthetics and monitored anesthesia care. This set of standards addresses only the issue of basic anesthetic monitoring, which is one component of anesthesia care. In certain rare or unusual circumstances, 1) some of these methods of monitoring may be clinically impractical, and 2) appropriate use of the described monitoring methods may fail to detect untoward clinical developments. Brief interruptions of continual† monitoring may be unavoidable. These standards are not intended for application to the care of the obstetrical patient in labor or in the conduct of pain management.

1. STANDARD I

Qualified anesthesia personnel shall be present in the room throughout the conduct of all general anesthetics, regional anesthetics and monitored anesthesia care.

1.1 Objective –

Because of the rapid changes in patient status during anesthesia, qualified anesthesia personnel shall be continuously present to monitor the patient and provide anesthesia care. In the event there is a direct known hazard, e.g., radiation, to the anesthesia personnel which might require intermittent remote observation of the patient, some provision for monitoring the patient must be made. In the event that an emergency requires the temporary absence of the person primarily responsible for the anesthetic, the best judgment of the anesthesiologist will be exercised in comparing the emergency with the anesthetized patient's condition and in the selection of the person left responsible for the anesthetic during the temporary absence.

2. STANDARD II

During all anesthetics, the patient's oxygenation, ventilation, circulation and temperature shall be continually evaluated.

2.1 Oxygenation –

2.1.1 Objective –

To ensure adequate oxygen concentration in the inspired gas and the blood during all anesthetics.

NSBME 2679

2.1.2 Methods –

Inspired gas: During every administration of general anesthesia using an anesthesia machine, the concentration of oxygen in the patient breathing system shall be measured by an oxygen analyzer with a low oxygen concentration limit alarm in use.*

Blood oxygenation: During all anesthetics, a quantitative method of assessing oxygenation such as pulse oximetry shall be employed.* When the pulse oximeter is utilized, the variable pitch pulse tone and the low threshold alarm shall be audible to the anesthesiologist or the anesthesia care team personnel.* Adequate illumination and exposure of the patient are necessary to assess color.*

2.2 Ventilation -

2.2.1 Objective –

To ensure adequate ventilation of the patient during all anesthetics.

2.2.2 Methods –

Every patient receiving general anesthesia shall have the adequacy of ventilation continually evaluated. Qualitative clinical signs such as chest excursion, observation of the reservoir breathing bag and auscultation of breath sounds are useful. Continual monitoring for the presence of expired carbon dioxide shall be performed unless invalidated by the nature of the patient, procedure or equipment. Quantitative monitoring of the volume of expired gas is strongly encouraged.*

When an endotracheal tube or laryngeal mask is inserted, its correct positioning must be verified by clinical assessment and by identification of carbon dioxide in the expired gas. Continual end-tidal carbon dioxide analysis, in use from the time of endotracheal tube/laryngeal mask placement, until extubation/removal or initiating transfer to a postoperative care location, shall be performed using a quantitative method such as capnography, capnometry or mass spectroscopy.* When capnography or capnometry is utilized, the end tidal CO2 alarm shall be audible to the anesthesiologist or the anesthesia care team personnel.*

When ventilation is controlled by a mechanical ventilator, there shall be in continuous use a device that is capable of detecting disconnection of components of the breathing system. The device must give an audible signal when its alarm threshold is exceeded.

During regional anesthesia (with no sedation) or local anesthesia (with no sedation), the adequacy of ventilation shall be evaluated by continual observation of qualitative clinical signs. During moderate or deep sedation the adequacy of ventilation shall be evaluated by continual observation of qualitative clinical signs and monitoring for the presence of exhaled carbon dioxide unless precluded or invalidated by the nature of the patient, procedure, or equipment.

2.3 Circulation -

2.3.1 Objective –

To ensure the adequacy of the patient's circulatory function during all anesthetics.

2.3.2 Methods –

Every patient receiving anesthesia shall have the electrocardiogram continuously displayed from the beginning of anesthesia until preparing to leave the anesthetizing location.*

Every patient receiving anesthesia shall have arterial blood pressure and heart rate determined and evaluated at least every five minutes.*

Every patient receiving general anesthesia shall have, in addition to the above, circulatory function continually evaluated by at least one of the following: palpation of a pulse, auscultation of heart sounds, monitoring of a tracing of intra-arterial pressure, ultrasound peripheral pulse monitoring, or pulse plethysmography or oximetry.

2.4 Body Temperature

2.4.1 Objective –

To aid in the maintenance of appropriate body temperature during all anesthetics.

2.4.2 Methods –

Every patient receiving anesthesia shall have temperature monitored when clinically significant changes in body temperature are intended, anticipated or suspected.

† Note that "continual" is defined as "repeated regularly and frequently in steady rapid succession" whereas "continuous" means "prolonged without any interruption at any time."

* Under extenuating circumstances, the responsible anesthesiologist may waive the requirements marked with an asterisk (*); it is recommended that when this is done, it should be so stated (including the reasons) in a note in the patient's medical record.

American Society of
Anesthesiologists

Basic Standards for Preanesthesia Care

Committee of Origin: Standards and Practice Parameters

(Approved by the ASA House of Delegates on October 14, 1987, and last affirmed on December 13, 2020)

These standards apply to all patients who receive anesthesia care. Under exceptional circumstances, these standards may be modified. When this is the case, the circumstances shall be documented in the patient's record.

An anesthesiologist shall be responsible for determining the medical status of the patient and developing a plan of anesthesia care.

The anesthesiologist, before the delivery of anesthesia care, is responsible for:

1. Reviewing the available medical record.
2. Interviewing and performing a focused examination of the patient to:
   - 2.1 Discuss the medical history, including previous anesthetic experiences and medical therapy.
   - 2.2 Assess those aspects of the patient's physical condition that might affect decisions regarding perioperative risk and management.
3. Ordering and reviewing pertinent available tests and consultations as necessary for the delivery of anesthesia care.
4. Ordering appropriate preoperative medications.
5. Ensuring that consent has been obtained for the anesthesia care.
6. Documenting in the chart that the above has been performed.

NSBME 2682

EXHIBIT 108

EXHIBIT 108

American Society of
Anesthesiologists™

Standards for Postanesthesia Care

Committee of Origin: Standards and Practice Parameters

(Approved by the ASA House of Delegates on October 27, 2004, and last amended on October 23, 2019)

These standards apply to postanesthesia care in all locations. These standards may be exceeded based on the judgment of the responsible anesthesiologist. They are intended to encourage quality patient care, but cannot guarantee any specific patient outcome. They are subject to revision from time to time as warranted by the evolution of technology and practice.

STANDARD I

ALL PATIENTS WHO HAVE RECEIVED GENERAL ANESTHESIA, REGIONAL ANESTHESIA OR MONITORED ANESTHESIA CARE SHALL RECEIVE APPROPRIATE POSTANESTHESIA MANAGEMENT.

1. A Postanesthesia Care Unit (PACU) or an area which provides equivalent postanesthesia care (for example, a Surgical Intensive Care Unit) shall be available to receive patients after anesthesia care. All patients who receive anesthesia care shall be admitted to the PACU or its equivalent **except** by specific order of the anesthesiologist responsible for the patient's care.
2. The medical aspects of care in the PACU (or equivalent area) shall be governed by policies and procedures which have been reviewed and approved by the Department of Anesthesiology.
3. The design, equipment and staffing of the PACU shall meet requirements of the facility's accrediting and licensing bodies.

STANDARD II

A PATIENT TRANSPORTED TO THE PACU SHALL BE ACCOMPANIED BY A MEMBER OF THE ANESTHESIA CARE TEAM WHO IS KNOWLEDGEABLE ABOUT THE PATIENT'S CONDITION. THE PATIENT SHALL BE CONTINUALLY EVALUATED AND TREATED DURING TRANSPORT WITH MONITORING AND SUPPORT APPROPRIATE TO THE PATIENT'S CONDITION.

STANDARD III

UPON ARRIVAL IN THE PACU, THE PATIENT SHALL BE RE-EVALUATED AND A VERBAL REPORT PROVIDED TO THE RESPONSIBLE PACU NURSE BY THE MEMBER OF THE ANESTHESIA CARE TEAM WHO ACCOMPANIES THE PATIENT.

1. The patient's status on arrival in the PACU shall be documented.
2. Information concerning the preoperative condition and the surgical/anesthetic course shall be transmitted to the PACU nurse.

NSBME 2683

3. The member of the Anesthesia Care Team shall remain in the PACU until the PACU nurse accepts responsibility for the nursing care of the patient.

STANDARD IV

THE PATIENT'S CONDITION SHALL BE EVALUATED CONTINUALLY IN THE PACU.

1. The patient shall be observed and monitored by methods appropriate to the patient's medical condition. Particular attention should be given to monitoring oxygenation, ventilation, circulation, level of consciousness and temperature. During recovery from all anesthetics, a quantitative method of assessing oxygenation such as pulse oximetry shall be employed in the initial phase of recovery.* This is not intended for application during the recovery of the obstetrical patient in whom regional anesthesia was used for labor and vaginal delivery.
2. An accurate written report of the PACU period shall be maintained. Use of an appropriate PACU scoring system is encouraged for each patient on admission, at appropriate intervals prior to discharge and at the time of discharge.
3. General medical supervision and coordination of patient care in the PACU should be the responsibility of an anesthesiologist.
4. There shall be a policy to assure the availability in the facility of a physician capable of managing complications and providing cardiopulmonary resuscitation for patients in the PACU.

STANDARD V

A PHYSICIAN IS RESPONSIBLE FOR THE DISCHARGE OF THE PATIENT FROM THE POSTANESTHESIA CARE UNIT.

1. When discharge criteria are used, they must be approved by the Department of Anesthesiology and the medical staff. They may vary depending upon whether the patient is discharged to a hospital room, to the Intensive Care Unit, to a short stay unit or home.
2. In the absence of the physician responsible for the discharge, the PACU nurse shall determine that the patient meets the discharge criteria. The name of the physician accepting responsibility for discharge shall be noted on the record.

* Under extenuating circumstances, the responsible anesthesiologist may waive the requirements marked with an asterisk (*); it is recommended that when this is done, it should be so stated (including the reasons) in a note in the patient's medical record.

NRS 639.100

Curriculum Vitae

Mark Elliott Janes
405 Blue Spruce Rd
Reno, NV 89511
Email: markelliottjanes@hotmail.com
Cell: 775-412-1888

Board Certification:
American Board of Anesthesiology

Employment:

Anesthesiologist, Associated Anesthesiologists of Reno
2013 to present

Anesthesiologist, Northern Nevada Anesthesia Associates
2002 to 2013

Assistant Professor, Department of Anesthesiology
Cardiothoracic Anesthesia Division
University of Colorado Health Sciences Center
2001 to 2002

Post Graduate Education:
Chief Resident, Department of Anesthesiology
University of Colorado Health Sciences Center
June 2000 to June 2001

Resident, Department of Anesthesiology
University of Colorado Health Sciences Center
March 1998 to March 2001

Research Fellow
Leiden University, Leiden, the Netherlands
July 1996 to March 1998

Intern, Department of Internal Medicine
University of Utah
July 1995 to July 1996

Education:
M.D.
Vanderbilt University

1995

B.S., psychology
University of Iowa
1991

Awards:
Chief Resident Award
University of Colorado Health Sciences Center
2000

Outstanding Academic Achievement Award
University of Colorado Health Sciences Center
1998, 1999, 2000

Microbes and Defense Society
Vanderbilt University
1992

Graduated with Honors and High Distinction
University of Iowa
1991

Collegiate Scholar
University of Iowa
1991

Phi Beta Kappa
University of Iowa
1990

National Science Foundation Fellowship
University of Virginia
1990

Psi Chi
University of Iowa
1989

Dean's List
University of Iowa
1988, 1990, 1991

President's List
University of Iowa
1988

Professional Responsibilities:
Director of Safety
Associated Anesthesiologists of Reno

Director of Cardiothoracic Anesthesia
Northern Nevada Anesthesia Associates

Nevada Medical Board Reviewer

References:
Available on request

Mark James M.D.

RESPONDENT'S EXHIBITS

EXHIBIT A

STATE OF NEVADA

Department of Health and Human Services
Division of Public and Behavioral Health
Bureau of Health Care Quality and Compliance

JOHNA RUSCH
Health Facilities Inspector II

4220 S. Maryland Pkwy., Ste. 810
Las Vegas, Nevada 89119

Telephone: (702) 486-6515
Fax: (702) 486-6520

E-mail: jrusch@health.nv.gov
www.dpbh.nv.gov

STATE OF NEVADA

Department of Health and Human Services
Division of Public and Behavioral Health
Bureau of Health Care Quality and Compliance

JEFFREY CAINE, RN, BSN, MA
Health Facilities Surveyor II

4220 S. Maryland Parkway, Suite 810
Las Vegas, Nevada 89119

Telephone (702) 486-6515
Fax (702) 486-6520

E-mail: jcaine@health.nv.gov
dpbh.nv.gov

EXHIBIT B

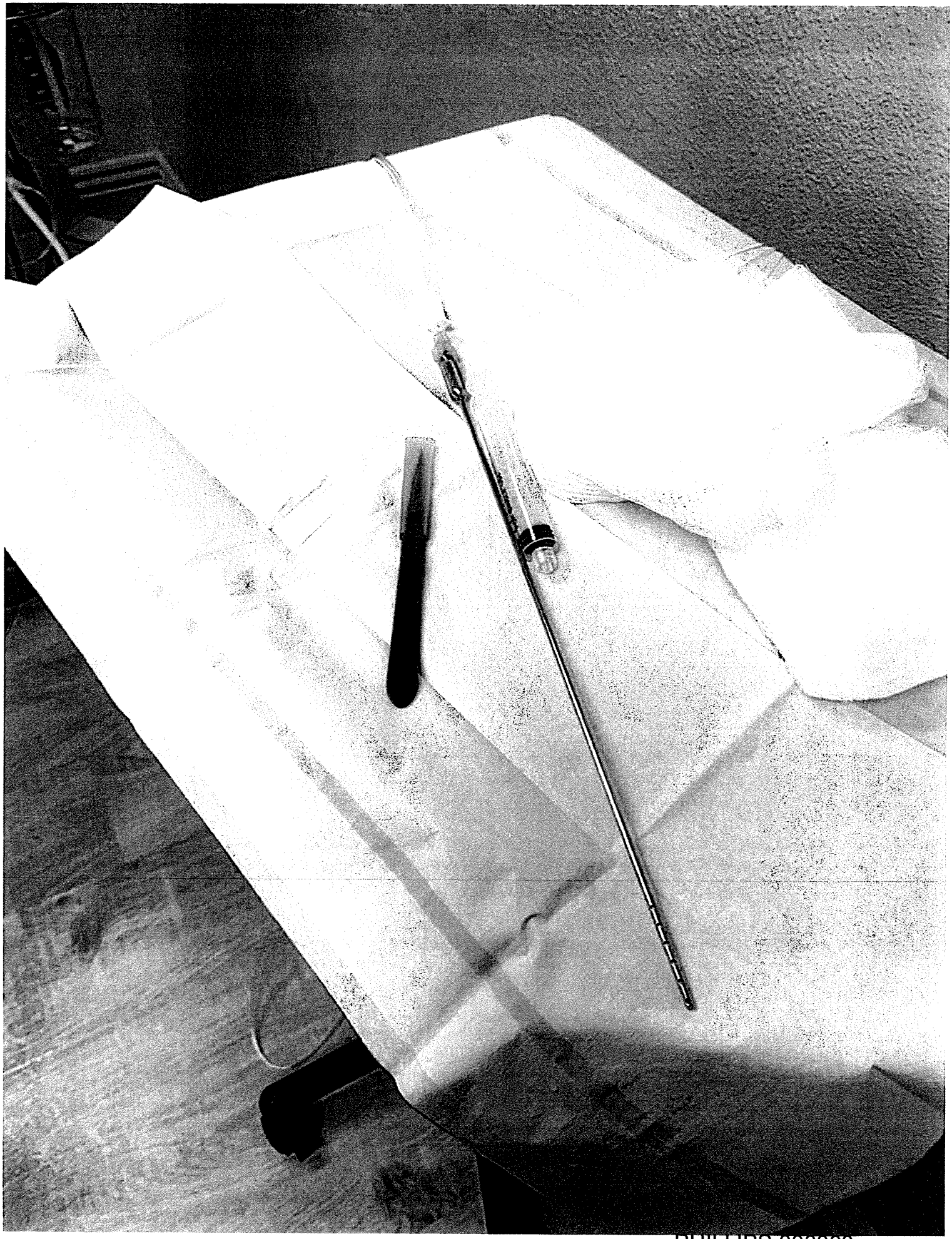


EXHIBIT C

MEDICAL RECORDS

This exhibit contains personal medical information, records of a patient or other personal identifying information that is confidential and otherwise protected from disclosure to the public pursuant to NRS 622.310.

EXHIBIT D

MEDICAL RECORDS

This exhibit contains personal medical information, records of a patient or other personal identifying information that is confidential and otherwise protected from disclosure to the public pursuant to NRS 622.310.

EXHIBIT E

State of Nevada • Office of the State Fire Marshal

Certificate of Compliance for Non-Structural Fire and Life Safety

This certificate is issued certifying that, at the time of issuance, this structure was in compliance with the State Fire Marshal regulations, NAC 477, State of Nevada, regulating building construction, use, or occupancy. This certificate does not create and express or implied warranty or guarantee.

Building Name: VIDA SPA LLC

Owner / Administrator: VIDA SPA LLC, OWNER

Address: 3225 S. RAINBOW BLVD. STE. 206, LAS VEGAS, NV 89146

Use: AN OUTPATIENT FACILITY FOR SERVICES OF LOCAL SEDATION

Occupancy Classification: B

Type of Construction: UNK

INSPECTOR KENNEDY, NSFM DIVISION
Inspected By

Lt. Mike Dzurak
Nevada State Fire Marshal

Project Number: N/A

Date Issued: APRIL 29, 2021

Please Post in a Conspicuous Place

EXHIBIT F

Business License Detail Information

License Number:	2003447.081-172
MJBL Number:	
Business:	Vida Spa, LLC 3225 S Rainbow Blvd Las Vegas, NV 89146
Business Telephone:	(937) 638-9684
License Category:	Cosmetology Establishment - Other Services
Status:	Out of Business
Date of License:	12/21/2016
Out of Business Date:	09/24/2021

Business Owner(s)
Ownership not displayed for inactive businesses.

Return to Previous Page
Return to Business License Database Search Options

FILING HISTORY

ENTITY INFORMATION

Entity Name:

EQR RETAIL MARKS LLC

Entity Number:

E0325412016-3

Entity Type:

Domestic Limited-Liability Company (86)

Entity Status:

Active

Formation Date:

07/22/2016

NV Business ID:

NV20161430784

Termination Date:

Perpetual

Annual Report Due Date:

7/31/2022

Series LLC:

Restricted LLC:

FILING HISTORY DETAILS

File Date	Effective Date	Filing Number	Document Type	Amendment Type	Source	View
04/29/2022	04/29/2022	20222288037	Amendment to Articles of Organization		Internal	
07/30/2021	07/30/2021	20211646403	Annual List		External	
07/24/2020	07/24/2020	20200805546	Annual List		External	
07/25/2019	07/25/2019	20190060994	Annual List		External	
07/24/2018	07/24/2018	20180326110-24	Annual List		External	
07/13/2017	07/13/2017	20170300205-00	Annual List		External	
07/22/2016	07/22/2016	20160324669-89	Initial List		External	
07/22/2016	07/22/2016	20160324667-67	Articles of Organization		External	

Page 1 of 1, records 1 to 8 of 8

FILING DATE SNAPSHOT AS OF: 04/29/2022

Business Details **Name Changes** **Principal Office** **Registered Agent**

Officer Information **Shares**

Business Name :

VIDA SPA LLC

Entity Type :

Domestic Limited-Liability Company (86)

Jurisdiction :

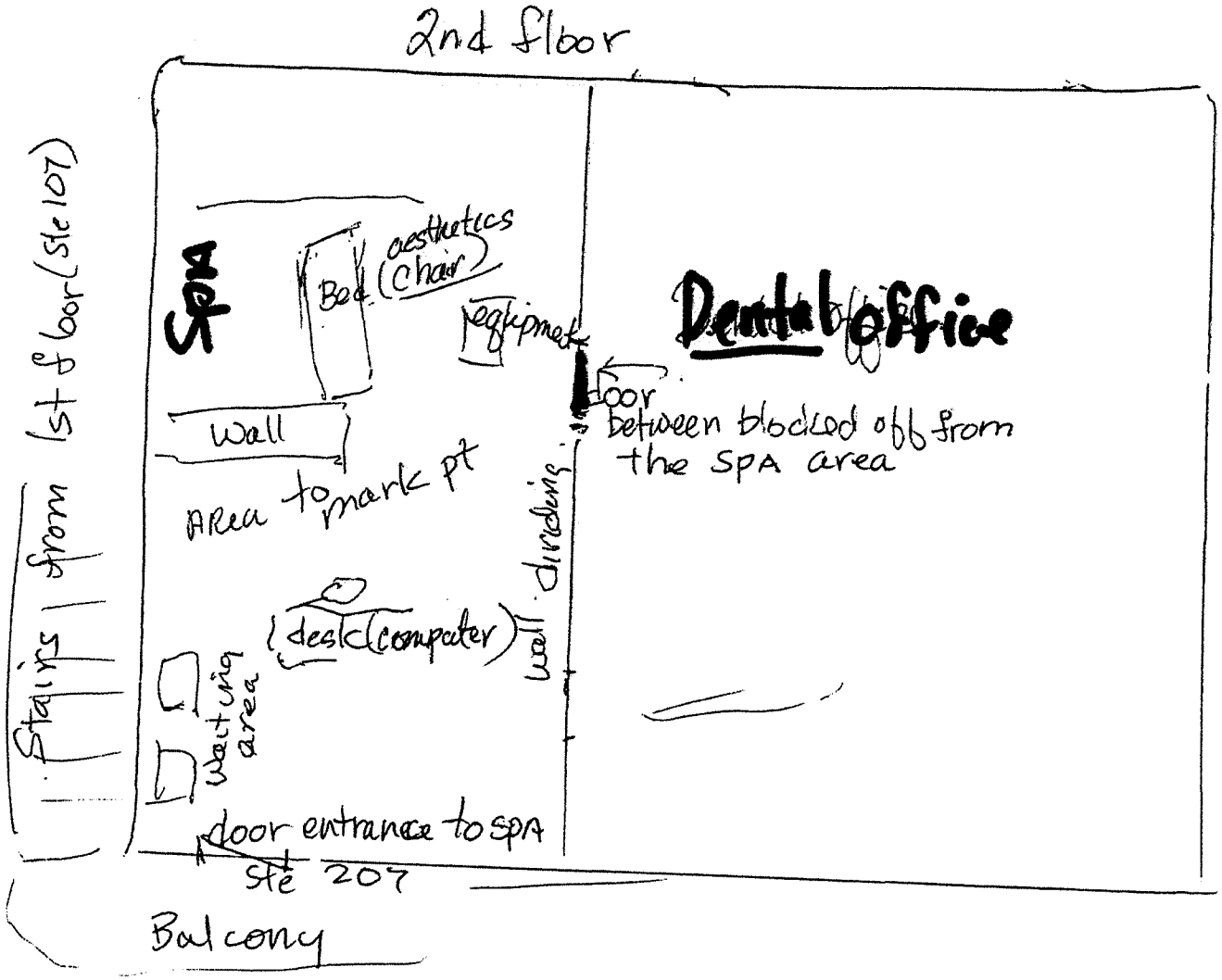
Nevada

Formation Date in Jurisdiction :

Annual Report Due Date :

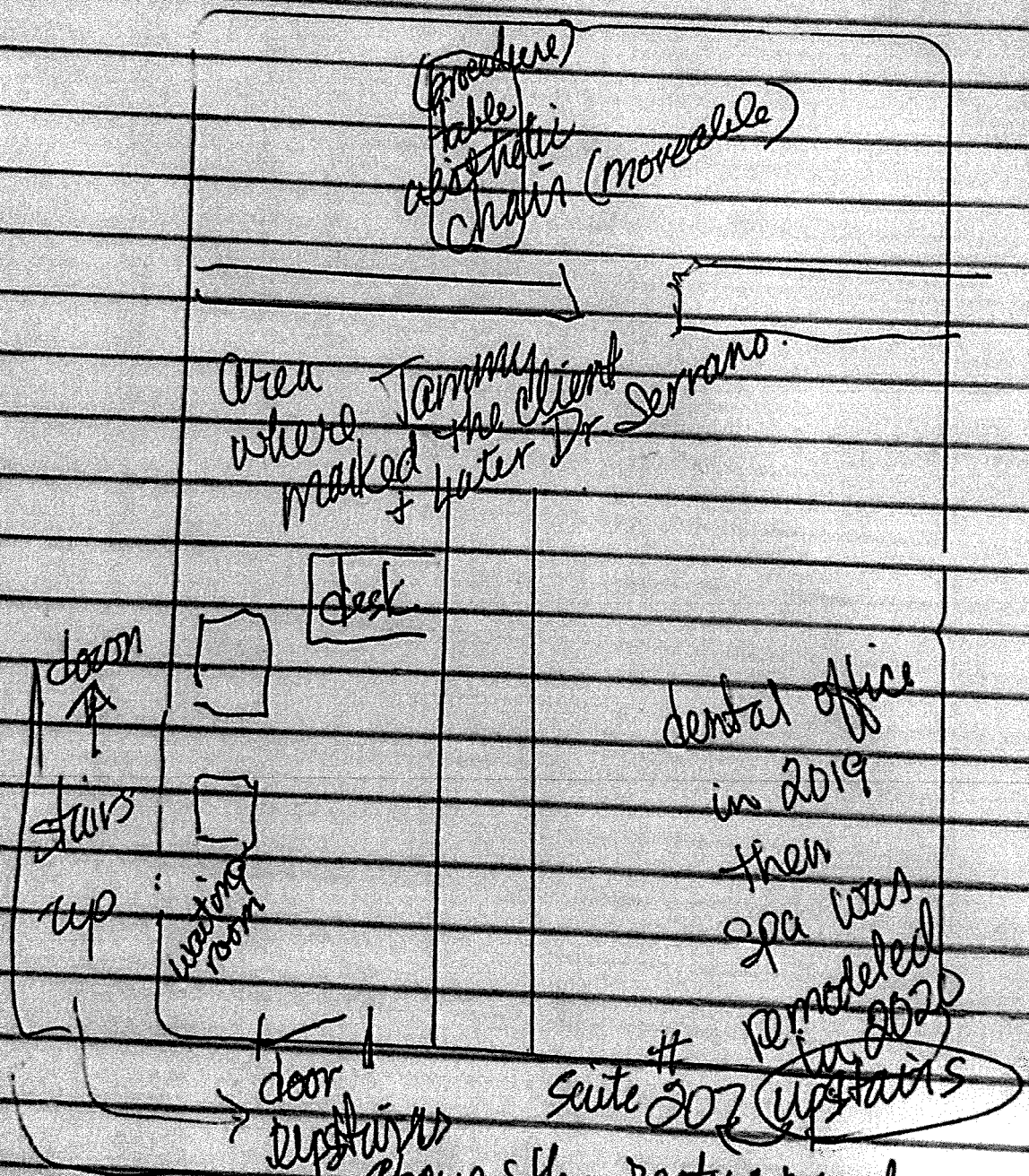
7/31/2022

EXHIBIT G

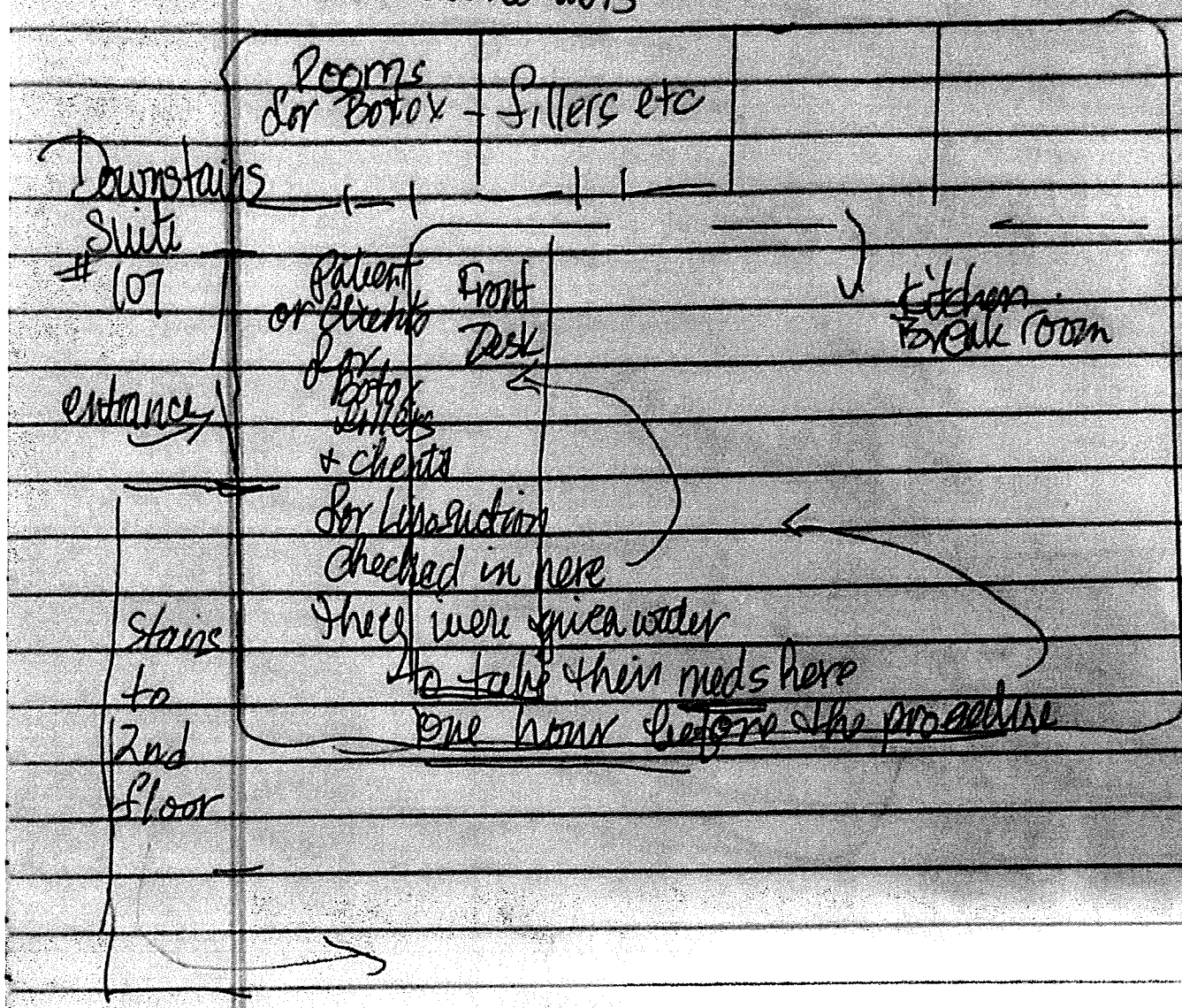

2nd floor
Stairs from 1st floor (Ste 107)
SPA
Bed
aesthetics (Chair)
equipment
Dental office
door between blocked off from the SPA area
Wall
Area to mark pt
wall dividing
desk (computer)
Waiting area
door entrance to SPA
Ste 207
Balcony

Diagrams Spa

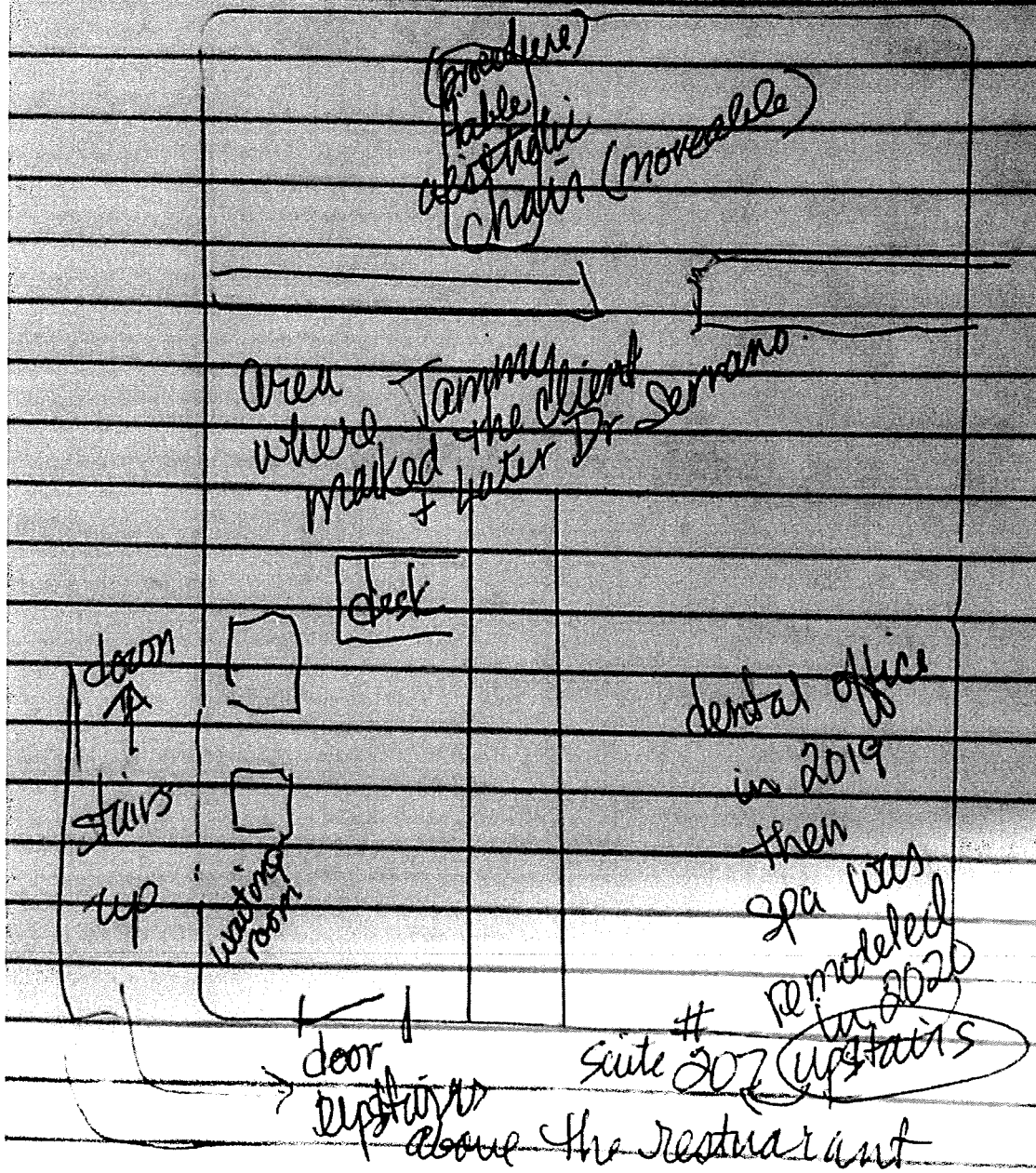
upstairs



Downstairs


Rooms for Botox
Fillers etc
Downstairs Suite #107
Patient or Clients of Botox Fillers + Clients for Liposuction
Front Desk
Kitchen Break room
entrance
Stairs to 2nd floor
Checked in here
They were given water to take their meds here
one hour before the procedure

upstairs


(procedure)
table
aesthetic
chair (moveable)
Area where Tammy maked the client + later Dr Serrano.
desk
down
stairs
up
waiting room
dental office in 2019 then spa was remodeled in 2020
door
upstairs above the restaurant
Suite # 207 upstairs

Facility Name: Inspector: Date:

OPF Tour

Observation	Y	N	N/A	Comments
Malignant Hyperthermia cart* - check P/P, minimum 36 vials Dantrolene, each diluted w 60 ml sterile H2O *(Only required for general anesthesia)*				
Emergency equipment (Q105): ☐ Airway ☐ Ambu bag manual (single use mask) ☐ Cardiac defibrillator (batteries, pads, indicator light working) ☐ Cardiac monitor annual ☐ Endotracheal tubes ☐ Suction equipment; if GI procedure, need 2 suction mach., 1 for oral and 1 for GI ☐ Oxygen/02 mask ☐ Laryngoscopes ☐ Ventilator/positive pressure demand valve *(depress valve - only required for general anesthesia)* O0140 Expired or accessible to patients				
Emergency medications Crash cart(s) incl. anesthesia cart; Expiration dates O0140 Expired or accessible to patients				
Emergency call system (i.e. phone)				
Glucometer (Q103) observe glucometer use, clean glucometer between every patient; Uses single use lancing devices (NOT the penlet that comes with the kit) O0141No CLIA				
Blood/body spill kit				

Facility Name: Inspector: Date:

Observation	Y	N	N/A	Comments
O0093 Sharps containers in place & replaced before the fill line is reached				
O0100 Janitor closet (check contracts)				
O0100 OPF is safe/sanitary/properly constructed/equipped and maintained to protect health and safety of patients; space, lighting, maintenance; clean/dirty utility room				
O0090 Scrub sink/hand sink/alcohol based hand rubs				
Separate waiting room (not used for other functions on OR days)				
Separate recovery rooms (access is limited)				
O0140 Narcotics box: Double door and locked: Attached to wall or counter: Storage of keys, who has access:				
Narcotic log: O0140 Expiration dates: Check if used for conscious sedation (Versed, Fentanyl, Narcan)				
Medical record storage				
O0140 Fire Extinguisher check –				
O0098 Medical Waste Storage (contained/secure)				
O0050 Posting of OPF Permit				
O0040 Posting of Accreditation				
O0140 Is equipment new (good 1 year then need preventative maintenance); Used equipment check PM stickers annually;				

* Malignant Hyperthermia (hyperthermia episode, hypermetabolic syndrome) – An extreme medical emergency triggered by inhaled anesthetics except nitrous oxide. Develops during induction, 12 hr post op or up to 48 hrs after therapy; triggering agents include halothane, enflurane, isoflurane, desflurane, sevoflurane, ether, methoxyflurane, cyclopropane, succinylcholine

Gressia Sanchez

From: Selena Gray
Sent: Wednesday, October 21, 2020 2:31 PM
To: Gressia Sanchez
Subject: FW: Your assistance please-- outpatient facility rules

If you can manage this UNL as well, greatly appreciated.

From: Paul Shubert [redacted]
Sent: Wednesday, October 21, 2020 2:29 PM
To: Dena M. McClish <[redacted]; DPBH HCQC Complaints <HCQCComplaint@health.nv.gov>; Selena Gray <[redacted]; Minou Nelson <[redacted]
Cc: Kim A. Friedman <[redacted]; Dorothy Sims <[redacted]; Patricia Elkins <[redacted]>
Subject: RE: Your assistance please-- outpatient facility rules

Investigator McClish,
Thank you for bringing this to our attention. Based on your observations, it does appear this provider should be licensed and certified.

Selena,
Please ensure we complete an intake for this unlicensed operation of a facility as indicated below.

Minou,
Please coordinate to ensure we complete an investigation.

Thanks,

Paul Shubert, Bureau Chief
Nevada Department of Health and Human Services
Division of Public and Behavioral Health
Bureau of Health Care Quality and Compliance
4220 S. Maryland Pkwy | Las Vegas, NV 89119
[redacted]
www.dhhs.nv.gov | http://dpbh.nv.gov/
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From: Dena M. McClish <[redacted]
Sent: Wednesday, October 21, 2020 1:58 PM
To: Dorothy Sims <[redacted]; Paul Shubert <[redacted]

Cc: Kim A. Friedman [redacted]
Subject: Your assistance please-- outpatient facility rules

Good afternoon, we visited a facility yesterday that is conducting laser liposuction and definitely using IV sedation for such. They have a "medical director" agreement with a practitioner. With that being said, does this facility need to be permitted with you and accredited per NAC 449.99942 and 449.999424? We have a complaint from a patient that was hospitalized in serious condition after having this procedure done here in June 2020.

They seem to meet the definition of outpatient facility and I'm pretty sure they are not registered. Any assistance you might be able to provide would be greatly appreciated. This is a facility we've been to a few times for various problems so we'd love to see them at the very least brought into compliance.

Vida Spa LLC
3225 S Rainbow Blvd #206
Las Vegas, NV 89146

Owner: Gisselle Platfoot
Current Medical Director: NP Charmaine Porcii

Dena M McClish, Investigator

Nevada State Board of Pharmacy
1050 E Flamingo Rd Ste E-217
Las Vegas, NV, 89119

Office: 702.486.6420 ext 154
Cell: 702.494.8672
Fax: 702.486.7903
E-mail: dmcclish@pharmacy.nv.gov
Web Page: www.bop.nv.gov

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This information is provided as a courtesy on behalf of the Nevada State Board of Pharmacy. This information does not constitute legal advice and does not override the specific provisions of Nevada law as applied to a particular set of facts.

Redaction Date: 10/26/2022 12:42:20 PM

Redaction Log

Total Number of Redactions in Document: 12

Redaction Reasons by Page

Page	Reason	Description	Occurrences
1	General Privacy	Redaction of information, due to legitimate privacy concerns, pursuant Clark County School District v. Las Vegas Review Journal 134 Nev. 700, 708, 429 P.3d 313, 320 (2018) (holding that Nevada's common law protects personal privacy interests from unrestrained disclosure under the NPRA); Las Vegas Metropolitan Police Department v. Las Vegas Review-Journal 136 Nev. Adv. Op. 86, 478 P.3d 383 (2020)	11
2	General Privacy	Redaction of information, due to legitimate privacy concerns, pursuant Clark County School District v. Las Vegas Review Journal 134 Nev. 700, 708, 429 P.3d 313, 320 (2018) (holding that Nevada's common law protects personal privacy interests from unrestrained disclosure under the NPRA); Las Vegas Metropolitan Police Department v. Las Vegas Review-Journal 136 Nev. Adv. Op. 86, 478 P.3d 383 (2020)	1

Redaction Date: 10/26/2022 12:42:20 PM

Redaction Log

Redaction Reasons by Exemption

Reason	Description	Pages (Count)
General Privacy	Redaction of information, due to legitimate privacy concerns, pursuant Clark County School District v. Las Vegas Review Journal 134 Nev. 700, 708, 429 P.3d 313, 320 (2018) (holding that Nevada's common law protects personal privacy interests from unrestrained disclosure under the NPRA); Las Vegas Metropolitan Police Department v. Las Vegas Review-Journal 136 Nev. Adv. Op. 86, 478 P.3d 383 (2020)	1(11) 2(1)

From:	Gisselle Andrea Platfoot
To:	Kyle Parkson
Subject:	Fw: Vida Spa LLC application
Date:	Monday, December 14, 2020 12:43:22 PM
Attachments:	Application Summary.pdf PaymentReceipt (1).pdf

Sent from Outlook

From: Gisselle Andrea Platfoot
Sent: Monday, December 14, 2020 3:42 PM
To: [redacted] General Privacy
Subject: Vida Spa LLC application

Dear Sirs,

We have filled out the application and paid the fee for the sedation permit. Please let me know if you have any questions and if I have met all the requirements for this permit.

Thank you,

Gisselle Platfoot
[redacted] General Privacy

Sent from Outlook

DEPARTMENT OF HEALTH AND HUMAN SERVICES
NEVADA DIVISION OF PUBLIC AND BEHAVIORAL HEALTH (DPBH)

Initial Licensure Application for a Health Facility

Application Type	
Question	Response
Which application would you like to apply?	Initial Licensure Application for a Health Facility

Credential Information	
License Type	Endorsements
OUTPATIENT FACILITY	

Business Entity Information

Facility Name (DBA Name): VIDA SPA LLC

NV Business ID: NV20161430784

Registered Name with Secretary of State (Legal / Business Name): NEVADA

Ownership Type: LLC

Primary Contact Person: PLATFOOT, GISSELLE

Primary Contact Role: Administrator

Primary Contact Email: General Privacy

Primary Contact Phone: General Privacy
Ext:

Applicable License(s): 10334

Hours Of Operations

Day	Work Hours	From			To		
Sunday	Closed						
Monday	Open at Set Time	9	00	AM	6	00	PM
Tuesday	Open at Set Time	9	00	AM	6	00	PM
Wednesday	Open at Set Time	9	00	AM	6	00	PM
Thursday	Open at Set Time	9	00	AM	6	00	PM
Friday	Open at Set Time	9	00	AM	6	00	PM
Saturday	Open at Set Time	9	00	AM	6	00	PM

Mailing Address

Country: UNITED STATES

Address: 3225 S RAINBOW BLVD SUITE 206

Apt/Unit/etc:

City: LAS VEGAS

State / Province: NEVADA

County: CLARK

Zip: 89146-6216

Primary Phone#: General Privacy
Ext:

Alternate Phone#:
Ext:

Fax:

Primary Email: General Privacy

Alternate Email:

Physical Address of Facility		
Country: UNITED STATES	Address: 3225 S RAINBOW BLVD SUITE 206	Apt/Unit/etc:
City: LAS VEGAS	State / Province: NEVADA	County: CLARK
Zip: 89146-6216	Primary Phone#: 702-202-3050 Ext:	Alternate Phone#: Ext:
Fax:	Primary Email:	Alternate Email:

Ownership Information

Name	Role	% age Share	Address	Primary Email	Primary Phone
ART, MATRIX	Owner	50.00	3225 S RAINBOW BLVD SUITE 207, LAS VEGAS, NV, 89146	GAPC@LIVE.COM	[redacted]
PLATFOOT, GISSELLE	Owner	50.00	3225 S RAINBOW BLVD SUITE 207, LAS VEGAS, NV, 89146	GAPC@LIVE.COM	

[redacted]

Questions			
#	Questions	Response	Explanation
1.	Will the facility be performing laboratory testing (such as finger stick glucose, PT/INR or dips stick urine). If yes, please provide the NV State laboratory license number and CLIA number. Click here to get more information about CLIA regulations (www.cms.gov/clia) NAC 449.61142 An **obstetric center** must be equipped with those items needed to provide low-risk obstetrical care without general anesthesia and initial emergency procedures for life-threatening events to a maternal patient and newborn baby, including, but not limited to: (a) Sterile supplies for delivering and caring for a newborn baby; (b) Equipment for performing pelvic examinations; (c) Sphygmomanometers and stethoscopes, in adult and infant sizes; (d) Fetoscopes and doppler fetal monitors; **(e) Supplies for measuring glucose and protein in urine** **If you are an obstetric center, please contact our medical laboratory department at 775-684-1030 regarding licensure.**	No	
2.	We will be furnishing all of these laboratory tests on site: Chemical examination of urine by stick or tablet method or both; Hemoglobin or hematocrit; Blood sugar; Examination of stool specimens for occult blood; Pregnancy tests; Primary culturing for transmittal to a certified laboratory.	NO	We do not perform these services.

Attestation

Attestation

RENEWAL NOTICE ATTESTATION
All Applicants (except outpatient facilities or programs for the treatment of domestic violence)
I attest that I have been informed that all licenses expire at the end of each calendar year, no matter when the license was printed and issued. All facilities receive a renewal notice (as a courtesy) the beginning of October and are required to pay a renewal fee on or before November 15th. Even though the Bureau might issue my facility a license toward the end of the year, I have been informed by Bureau staff that I am still expected to pay a renewal fee by November 15 of the current calendar year. If I pay after November 15th of current year, I will incur a late fee calculated at 1.5 times the renewal fee.

Outpatient Facilities and Programs for the Treatment of Domestic Violence
Ensure you renew your permit or certificate, as applicable, on or prior to the expiration date on your permit/certificate.

All Applicants
I attest that my facility is aware of the mandatory reporting requirements of suspected cases of abuse, neglect, exploitation, isolation or abandonment of a patient in accordance with NRS 432B.220 (child abuse), NRS 200.5093 (older person abuse), NRS 200.50935 (vulnerable person abuse) and NRS 632.472. Click HERE to view NRS Chapter 200. Click HERE to view NRS Chapter 632. Click HERE to view NRS Chapter 432B.

Facilities that Administer Psychotropic Medications to Children
I attest that my facility is aware of, except as otherwise provided in NRS 432B.4689, that the facility must obtain written consent from the person legally responsible (PLR) for the psychiatric care of the child prior to administering psychotropic medication to a child in the custody of a child welfare agency.

IMMUNIZATION REPORTING REQUIREMENTS
FOR ALL FACILITIES THAT PROVIDE IMMUNIZATIONS I attest that my facility is aware of and will be in compliance with the immunization reporting requirements found in Nevada Administrative Code (NAC) 439.890 and NAC 439.893. Click HERE to review the NAC immunization reporting requirements.

All facilities that provide immunizations must take the Nevada webIZ user training in order to report immunizations in accordance with NAC 439.890 and NAC 439.893, as applicable. **Click HERE to sign up for a webIZ training**. Click HERE for more information on Nevada's webIZ

Note: If your facility does not provide immunizations you are attesting that your facility does not provide any immunizations.

I attest that I am financially stable and have the funds available to operate this health facility.

I have read the foregoing questions and answered each as indicated. The answers are true and a complete representation to the best of my knowledge. I have read, understand, and agree to comply with the rules and regulations pertaining to the specific statutory type of the entity for which this licensure/certification/permit application is herein made. I authorize release of such information as it may pertain to the purpose of this application.

I understand that by checking here I agree to accept all communications electronically, including notifications of proposed changes to regulations. If this is a hardship, I agree to submit in writing to the Division of Public and Behavioral Health a request to use an alternate means of communication.

Under penalty of perjury, I attest that Laboratory Testing information provided in this application (if applicable) is correct.
I understand that upon issuance, OPF facility licenses expire after one year of issuance. All licensed OPF facilities will receive a renewal notice 45 days prior to the expiration date.
The act of affixing and executing the following signature is made with the present intent to identify myself as the authorized person signing this document and with the present intent to authenticate my signature as such. I am declaring, under penalty of perjury, that the information I am about to submit to the Nevada Division of Public and Behavioral Health is true and correct, is not submitted for any improper purpose, and that I am authorized to submit the information. I understand it is unlawful to submit any illegal, unauthorized, fraudulent, deceitful, forged, deceptive, defamatory, illicit, or improper information, as defined by state and federal law, to the Nevada Division of Public and Behavioral Health, and agree to indemnify the Nevada Division of Public and Behavioral Health, and any other parties entitled thereto, for any damages incurred for any unlawful, unauthorized, fraudulent, deceitful, forged, deceptive, defamatory, illicit, or improper information, as defined by the federal and state law, submitted to the Nevada Division of Public and Behavioral Health by my use of this electronic filing system. I further understand that I may be subject to criminal and/or civil penalties for submitting any unlawful unauthorized, fraudulent, deceitful, forged, deceptive, defamatory, illicit, or improper information, as defined by federal and state law. I understand and agree that all information submitted is the property of the Nevada Division of Public and Behavioral Health, and may be monitored for all lawful purposes. I further understand that during such monitoring, all information, including personal information placed on this system, may be examined, copied, and used for any authorized purpose. I understand that I am responsible for any errors or omissions in the input of information and that I am also responsible for reviewing all information for completeness and correctness prior to submission. I declare under penalty of perjury that the foregoing is true and correct.

Name	Date
Gisselle Platfoot	12/14/2020

Fee Details	
Fee Description	Amount
Permitting Fee(OUTPATIENT FACILITY)	$ 3570.00
Total Fee	**$ 3570.00**

DEPARTMENT OF HEALTH AND HUMAN SERVICES
NEVADA DIVISION OF PUBLIC AND BEHAVIORAL HEALTH (DPBH)

Payment Receipt

Payment Details			
Payment Mode	Online Credit Card	Receipt #	243878
Amount	$ 3570.00	Online Transaction #	247830
Receipt Date	12/14/2020	Invoice #	INV-082192

Payment Distribution Details				
Business Unit	Name (Credential #)	Distribution Amount	Distribution Code	Comments
Health Facilities	VIDA SPA LLC (10334)	$ 3570.00	Applications - Health Facilities	

Redaction Date: 10/26/2022 12:29:17 PM

Redaction Log

Total Number of Redactions in Document: 9

Redaction Reasons by Page

Page	Reason	Description	Occurrences
1	General Privacy	Redaction of information, due to legitimate privacy concerns, pursuant Clark County School District v. Las Vegas Review Journal 134 Nev. 700, 708, 429 P.3d 313, 320 (2018) (holding that Nevada's common law protects personal privacy interests from unrestrained disclosure under the NPRA); Las Vegas Metropolitan Police Department v. Las Vegas Review-Journal 136 Nev. Adv. Op. 86, 478 P.3d 383 (2020)	2
2	General Privacy	Redaction of information, due to legitimate privacy concerns, pursuant Clark County School District v. Las Vegas Review Journal 134 Nev. 700, 708, 429 P.3d 313, 320 (2018) (holding that Nevada's common law protects personal privacy interests from unrestrained disclosure under the NPRA); Las Vegas Metropolitan Police Department v. Las Vegas Review-Journal 136 Nev. Adv. Op. 86, 478 P.3d 383 (2020)	4
3			3

Redaction Date: 10/26/2022 12:29:17 PM

Redaction Log

Redaction Reasons by Exemption

Reason	Description	Pages (Count)
		3(3)
General Privacy	Redaction of information, due to legitimate privacy concerns, pursuant Clark County School District v. Las Vegas Review Journal 134 Nev. 700, 708, 429 P.3d 313, 320 (2018) (holding that Nevada's common law protects personal privacy interests from unrestrained disclosure under the NPRA); Las Vegas Metropolitan Police Department v. Las Vegas Review-Journal 136 Nev. Adv. Op. 86, 478 P.3d 383 (2020)	1(2) 2(4)

Steve Sisolak
Governor

Richard Whitley, MS
Director

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Division of Public and Behavioral Health

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Lisa Sherych
Administrator

Ihsan Azzam, Ph.D., M.D.
Chief Medical Officer

12/16/20

General Privacy

Re: Complaint Number # 4908

Dear General Privacy

With reference to your complaint regarding a potential uncertified outpatient facility, located at 3225 S. Rainbow Blvd # 206 Las Vegas, a complaint investigation was initiated on 10/21/20 and completed on 12/16/20.

During the investigation, State Inspector interviewed individuals in the facility. Activities in the facility were evaluated to determine whether compensation was made for services rendered which would require licensure by the Division of Public and Behavioral Health.

Based on the completed investigation, it was concluded the home was not operating without a license, and the complaint was unsubstantiated.

Thank you for reporting your concerns. Please know that your voice will help improve the services of health facilities and agencies. If we can be of further assistance, please contact our office at 702-486-6515.

Sincerely,

Kyle Parkson, Health Facilities Inspector II

For: Paul Shubert, Bureau Chief

4220 S. Maryland Pkwy., Building D, Suite 810 • Las Vegas, Nevada 89119
702-486-6515 • Fax 702-486-6520 • dpbh.nv.gov

Redaction Date: 10/26/2022 12:37:29 PM

Redaction Log

Total Number of Redactions in Document: 2

Redaction Reasons by Page

Page	Reason	Description	Occurrences
1	General Privacy	Redaction of information, due to legitimate privacy concerns, pursuant Clark County School District v. Las Vegas Review Journal 134 Nev. 700, 708, 429 P.3d 313, 320 (2018) (holding that Nevada's common law protects personal privacy interests from unrestrained disclosure under the NPRA); Las Vegas Metropolitan Police Department v. Las Vegas Review-Journal 136 Nev. Adv. Op. 86, 478 P.3d 383 (2020)	2

Redaction Date: 10/26/2022 12:37:29 PM

Redaction Log

Redaction Reasons by Exemption

Reason	Description	Pages (Count)
General Privacy	Redaction of information, due to legitimate privacy concerns, pursuant Clark County School District v. Las Vegas Review Journal 134 Nev. 700, 708, 429 P.3d 313, 320 (2018) (holding that Nevada's common law protects personal privacy interests from unrestrained disclosure under the NPRA); Las Vegas Metropolitan Police Department v. Las Vegas Review-Journal 136 Nev. Adv. Op. 86, 478 P.3d 383 (2020)	1(2)

Chanel Gafford

From: Minou Nelson
Sent: Wednesday, December 16, 2020 7:26 AM
To: Kyle Parkson
Subject: RE: UNL 4908 OPF

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Kyle,
Yes, this most certainly can be closed and withdrawn based on their application and payment for licensure.

Thanks,

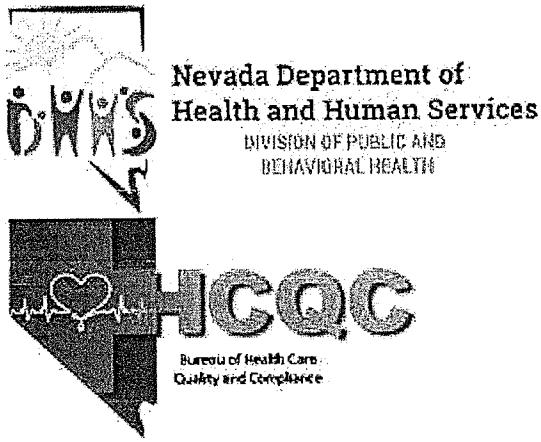
Minou Nelson
Health Facilities Inspector III
Nevada Department of Health and Human Services
Division of Public and Behavioral Health | Health Care Quality and Compliance
General Privacy

From: Kyle Parkson < General Privacy >
Sent: Monday, December 14, 2020 3:24 PM
To: Minou Nelson < General Privacy >
Subject: UNL 4908 OPF

Hello,

I'm trying to do everything between my phone and this tablet, so please let me know if there are any problems. The facility emailed me and reported applying for a license and attached the receipts. Can I just close this one out or should I keep it open?

Thanks



Kyle Parkson
Contracted Health Facilities Inspector II
Nevada Department of Health and Human Services
Division of Public and Behavioral Health | Bureau of Health Care Quality and Compliance
4220 S. Maryland Parkway, Bldg. A, Suite 100 | Las Vegas, NV 89119
General Privacy
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Redaction Date: 10/26/2022 12:25:28 PM

Redaction Log

Total Number of Redactions in Document: 9

Redaction Reasons by Page

Page	Reason	Description	Occurrences
1	General Privacy	Redaction of information, due to legitimate privacy concerns, pursuant Clark County School District v. Las Vegas Review Journal 134 Nev. 700, 708, 429 P.3d 313, 320 (2018) (holding that Nevada's common law protects personal privacy interests from unrestrained disclosure under the NPRA); Las Vegas Metropolitan Police Department v. Las Vegas Review-Journal 136 Nev. Adv. Op. 86, 478 P.3d 383 (2020)	4
2			1
2	General Privacy	Redaction of information, due to legitimate privacy concerns, pursuant Clark County School District v. Las Vegas Review Journal 134 Nev. 700, 708, 429 P.3d 313, 320 (2018) (holding that Nevada's common law protects personal privacy interests from unrestrained disclosure under the NPRA); Las Vegas Metropolitan Police Department v. Las Vegas Review-Journal 136 Nev. Adv. Op. 86, 478 P.3d 383 (2020)	4

Redaction Date: 10/26/2022 12:25:28 PM

Redaction Log

Redaction Reasons by Exemption

Reason	Description	Pages (Count)
		2(1)
General Privacy	Redaction of information, due to legitimate privacy concerns, pursuant Clark County School District v. Las Vegas Review Journal 134 Nev. 700, 708, 429 P.3d 313, 320 (2018) (holding that Nevada's common law protects personal privacy interests from unrestrained disclosure under the NPRA); Las Vegas Metropolitan Police Department v. Las Vegas Review-Journal 136 Nev. Adv. Op. 86, 478 P.3d 383 (2020)	1(4) 2(4)

[redacted]

From: Gisselle Andrea Platfoot <gapc@live.com>
Sent: Thursday, April 1, 2021 5:22 PM
To: Kali Galli <kgalli@health.nv.gov>
Subject: Re: Vida spa

Kali,

Here is Vida Spa's 3 year business history:
Vida Spa is a medical spa that opened on October 16th 2016. We perform laser hair removal, teeth whitening, various facials, massages, dermal filler injections, and Botox injections. We also began performing in-office liposuction three years ago. On staff we have an esthetician, massage therapists, registered nurses, medical director, an MD, receptionists, and an office manager.

I will make an account and complete the NABS training promptly. Thank you.

-Gisselle Platfoot

Sent from Outlook

From: Kali Galli <kGalli@health.nv.gov>
Sent: Monday, March 29, 2021 2:22 PM
To: Gisselle Andrea Platfoot <gapc@live.com>
Subject: RE: Vida spa

Good morning,
You should be able to create an account on that site to take the course. If you do continue to have problems getting to the NABS training you can reach out to Todd South at tsouth@health.nv.gov, he will be able to help with the site.
The 3 year business history can either be a short description of the business that includes the date of its inception or the resume and references of the owner(s).

I still need a copy of the local business license, not the State business license. This would come from either the City of Las Vegas or Clark County.

Kali Galli
Administrative Assistant III – Licensing Specialist
Nevada Department of Health and Human Services
Division of Public and Behavioral Health | Health Care Quality & Compliance
727 Fairview Dr Ste E | Carson City, NV 89701
T: (775) 684-1038 | F: (775) 684-1073 | E: kgalli@health.nv.gov
www.dhhs.nv.gov | www.dpbh.nv.gov

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From: Gisselle Andrea Platfoot <gapc@live.com>
Sent: Thursday, March 25, 2021 2:08 PM
To: Kali Galli <kGalli@health.nv.gov>
Subject: Re: Vida spa

Hi Kali,

I just sent you the lease agreement signed, business license, and the photos of the office. The NABS says guests cannot access the course, I do not have a log-in to complete this. Can you please elaborate on the 3 year business history statement, is this a document? Thank you.

-Gisselle Platfoot

Sent from Outlook

From: Kali Galli <kGalli@health.nv.gov>
Sent: Thursday, March 25, 2021 4:54 PM
To: Gisselle Andrea Platfoot <gapc@live.com>
Subject: Automatic reply: Vida spa

I am currently out of the office and will respond to voicemails and emails when I return. If you require immediate assistance, please call (775) 684-1030.

This email has been scanned for spam and viruses. Click here to report this email as spam.

[redacted]

From: Gisselle Andrea Platfoot <gapc@live.com>
Sent: Thursday, March 25, 2021 4:53 PM
To: Kali Galli <kgalli@health.nv.gov>
Subject: Re: Vida spa

Sent from Outlook

From: Kali Galli <kGalli@health.nv.gov>
Sent: Thursday, March 18, 2021 2:46 PM
To: Gisselle Andrea Platfoot <gapc@live.com>
Subject: RE: Vida spa

Good morning,
It looks like I am still missing a few things from the list. Please see below. Please let me know if you have questions.

-City or county business license
-Lease agreement This needs to be signed by tenant.
-3 year business history statement or the resume and 3 letters of reference for each owner
-Signed civil applicant waiver (attached)
-Certificate of completion for the NABS background check training found at http://dpbh.nv.gov/Reg/HealthFacilities/Training Education/
-Photo of the office

Kali Galli
Administrative Assistant III – Licensing Specialist
Nevada Department of Health and Human Services
Division of Public and Behavioral Health | Health Care Quality & Compliance
727 Fairview Dr Ste E | Carson City, NV 89701
T: (775) 684-1038 | F: (775) 684-1073 | E: kgalli@health.nv.gov
www.dhhs.nv.gov | www.dpbh.nv.gov

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From: Gisselle Andrea Platfoot <gapc@live.com>
Sent: Friday, March 12, 2021 4:06 PM
To: Kali Galli <kGalli@health.nv.gov>
Subject: Vida spa

Hello I am sorry for the delay in getting back to you, this is all the Documents the you requested, please let me know if i need to do anything.

Sent from Outlook

This email has been scanned for spam and viruses. Click here to report this email as spam.

[redacted]

From: Gisselle Andrea Platfoot <gapc@live.com>
Sent: Thursday, March 25, 2021 4:53 PM
To: Kali Galli <kgalli@health.nv.gov>
Subject: Re: Vida spa

Sent from Outlook

From: Kali Galli <kGalli@health.nv.gov>
Sent: Thursday, March 18, 2021 2:46 PM
To: Gisselle Andrea Platfoot <gapc@live.com>
Subject: RE: Vida spa

Good morning,
It looks like I am still missing a few things from the list. Please see below. Please let me know if you have questions.

-City or county business license
-Lease agreement This needs to be signed by tenant.
-3 year business history statement or the resume and 3 letters of reference for each owner
-Signed civil applicant waiver (attached)
-Certificate of completion for the NABS background check training found at http://dpbh.nv.gov/Reg/HealthFacilities/Training Education/
-Photo of the office

Kali Galli
Administrative Assistant III – Licensing Specialist
Nevada Department of Health and Human Services
Division of Public and Behavioral Health | Health Care Quality & Compliance
727 Fairview Dr Ste E | Carson City, NV 89701
T: (775) 684-1038 | F: (775) 684-1073 | E: kgalli@health.nv.gov
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From: Gisselle Andrea Platfoot <gapc@live.com>
Sent: Friday, March 12, 2021 4:06 PM
To: Kali Galli <kGalli@health.nv.gov>
Subject: Vida spa

Hello I am sorry for the delay in getting back to you, this is all the Documents the you requested, please let me know if i need to do anything.

Sent from Outlook

This email has been scanned for spam and viruses. Click here to report this email as spam.

Commercial Lease Agreement

This Lease agreement is made on this 17 day of November (Month), 2017 (Year) by and between

VEGAS VALLEY CENTER, LLC (hereinafter "Landlord")

AND

VIDA SPA, LLC (hereinafter "Tenant").

In consideration for the shared promises and agreements contained herein, and for other good and valuable consideration, the parties hereby agree as follows:

1. The Landlord leases to the Tenant, and the Tenant rents from the Landlord the following stated grounds: 3225 SOUTH RAINBOW BLVD, SUITE 206, LAS VEGAS, NV 89146

2. The tenure of the Lease shall be for NOV 2017 beginning and ending NOVEMBER 1, 2025.

3. The Tenant shall pay to Landlord as rent $ 4000.00 monthly. Payable to VEGAS VALLEY CENTER, LLC, due and payable first of the month.

4. Tenant shall use and inhabit the building only as a MEDICAL SPA (Tenant Rental Status) subject at all times to the approval of the Landlord.

5. The Tenant shall not make any amendments, additions or improvements to the building without the prior written permission of the Landlord.

6. The property-owner, at his own cost, shall equip the following utilities or facilities for the benefit of the occupant:

_____

_____

7. The leaseholder shall not let or commit waste to the property.

8. The leaseholder shall meet the terms, policies, order codes and laws of all governmental establishments having authority over the property.

9. The Tenant shall not allow or engage in any activity that will affect an increase in the rate of insurance for the Building in which the property is not contained nor shall the leaseholder allow or commit any annoyance thereon.

10. The lessee shall not sublet or allocate the neither property nor consent to any other person or business to use or occupy the property without the earlier written approval of the Landlord, which permission may not be unduly withdrawn.

11. At the end of the period of this Lease, the lessee shall give in and deliver up the property in the same condition (subject to any additions, alterations or improvements, if any) as presently exists, realistic wear and tear expelled.

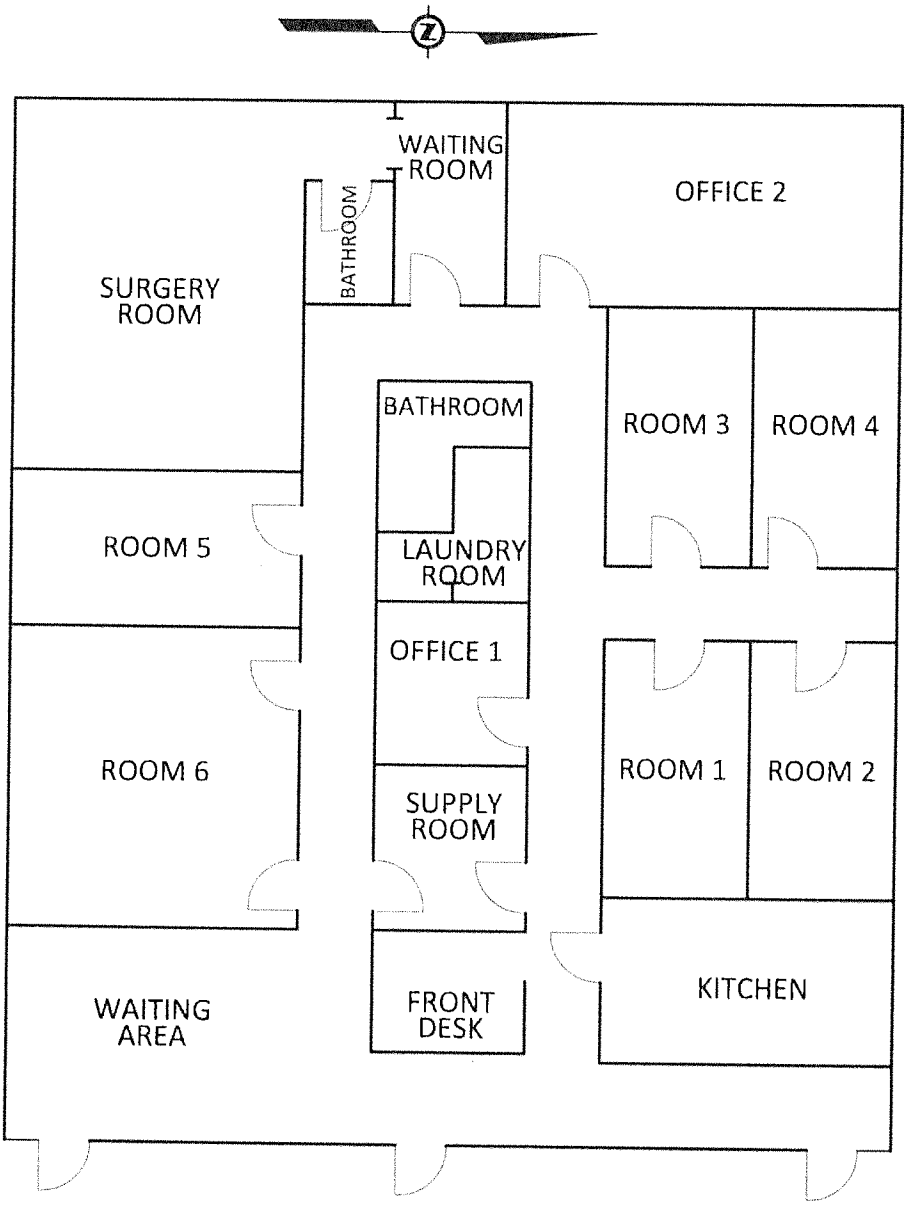
12. Upon evasion in any term or condition of this Lease, the owner shall have the right to embark on any or all other remedies allowable by Law.

13. This Lease shall be binding upon, and inure to the benefit of, the parties, their beneficiaries, successors, and assigns.

Signed on 1st **day of** NOV. **(Month)** 2017 **(Year)**

Tenant

Landlord


WAITING ROOM
OFFICE 2
BATHROOM
SURGERY ROOM
BATHROOM
ROOM 3
ROOM 4
ROOM 5
LAUNDRY ROOM
OFFICE 1
ROOM 6
ROOM 1
ROOM 2
SUPPLY ROOM
KITCHEN
WAITING AREA
FRONT DESK

IRS DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
CINCINNATI OH 45999-0023

Date of this notice: 07-21-2016

Employer Identification Number:
81-3318358

Form: SS-4

Number of this notice: CP 575 G

VIDA SPA LLC
GISSELLE PLATFOOT SOLE MBR
10655 PARK RUN DR STE 130
LAS VEGAS, NV 89144

For assistance you may call us at:
1-800-829-4933

IF YOU WRITE, ATTACH THE
STUB AT THE END OF THIS NOTICE.

WE ASSIGNED YOU AN EMPLOYER IDENTIFICATION NUMBER

Thank you for applying for an Employer Identification Number (EIN). We assigned you EIN 81-3318358. This EIN will identify you, your business accounts, tax returns, and documents, even if you have no employees. Please keep this notice in your permanent records.

When filing tax documents, payments, and related correspondence, it is very important that you use your EIN and complete name and address exactly as shown above. Any variation may cause a delay in processing, result in incorrect information in your account, or even cause you to be assigned more than one EIN. If the information is not correct as shown above, please make the correction using the attached tear off stub and return it to us.

A limited liability company (LLC) may file Form 8832, *Entity Classification Election*, and elect to be classified as an association taxable as a corporation. If the LLC is eligible to be treated as a corporation that meets certain tests and it will be electing S corporation status, it must timely file Form 2553, *Election by a Small Business Corporation*. The LLC will be treated as a corporation as of the effective date of the S corporation election and does not need to file Form 8832.

To obtain tax forms and publications, including those referenced in this notice, visit our Web site at www.irs.gov. If you do not have access to the Internet, call 1-800-829-3676 (TTY/TDD 1-800-829-4059) or visit your local IRS office.

IMPORTANT REMINDERS:

* Keep a copy of this notice in your permanent records. **This notice is issued only one time and the IRS will not be able to generate a duplicate copy for you.** You may give a copy of this document to anyone asking for proof of your EIN.

* Use this EIN and your name exactly as they appear at the top of this notice on all your federal tax forms.

* Refer to this EIN on your tax-related correspondence and documents.

If you have questions about your EIN, you can call us at the phone number or write to us at the address shown at the top of this notice. If you write, please tear off the stub at the bottom of this notice and send it along with your letter. If you do not need to write us, do not complete and return the stub.

Your name control associated with this EIN is VIDA. You will need to provide this information, along with your EIN, if you file your returns electronically.

Thank you for your cooperation.

(IRS USE ONLY) 575G 07-21-2016 VIDA C 9999999999 SS-4

Keep this part for your records. CP 575 G (Rev. 7-2007)

Return this part with any correspondence
so we may identify your account. Please
correct any errors in your name or address.

CP 575 G

9999999999

Your Telephone Number Best Time to Call
( ) -

DATE OF THIS NOTICE: 07-21-2016
EMPLOYER IDENTIFICATION NUMBER: 81-3318358
FORM: SS-4 NOBOD

INTERNAL REVENUE SERVICE
CINCINNATI OH 45999-0023

VIDA SPA LLC
GISSELLE PLATFOOT SOLE MBR
10655 PARK RUN DR STE 130
LAS VEGAS, NV 89144

SECRETARY OF STATE

STATE OF NEVADA

LIMITED LIABILITY COMPANY CHARTER

I, BARBARA K. CEGAVSKE, the Nevada Secretary of State, do hereby certify that **VIDA SPA LLC** did on July 22, 2016, file in this office the Articles of Organization for a Limited Liability Company, that said Articles of Organization are now on file and of record in the office of the Nevada Secretary of State, and further, that said Articles contain all the provisions required by the laws governing Limited Liability Companies in the State of Nevada.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of State, at my office on July 22, 2016.

Barbara K. Cegavske

BARBARA K. CEGAVSKE
Secretary of State

Certified By: Electronic Filing
Certificate Number: C20160722-0547
You may verify this certificate online at **http://www.nvsos.gov/**

BARBARA K. CEGAVSKE
Secretary of State
202 North Carson Street
Carson City, Nevada 89701-4201
(775) 684-5708
Website: www.nvsos.gov

050106

Articles of Organization
Limited-Liability Company
(PURSUANT TO NRS CHAPTER 86)

Filed in the office of	Document Number
Barbara K. Cegavske Secretary of State State of Nevada	20160324667-67
	Filing Date and Time 07/22/2016 9:18 AM
	Entity Number E0325412016-3

(This document was filed electronically.)

USE BLACK INK ONLY - DO NOT HIGHLIGHT

ABOVE SPACE IS FOR OFFICE USE ONLY

1. Name of Limited-Liability Company: (must contain approved limited-liability company wording; see instructions)

VIDA SPA LLC

Check box if a Series Limited-Liability Company: [X]

Check box if a Restricted Limited-Liability Company: [ ]

2. Registered Agent for Service of Process: (check only one box)

[X] Commercial Registered Agent: COOPER COONS, LTD (Name)

[ ] Noncommercial Registered Agent (name and address below) *OR* [ ] Office or Position with Entity (name and address below)

Name of Noncommercial Registered Agent **OR** Name of Title of Office or Other Position with Entity

Street Address | City | Nevada | Zip Code

Mailing Address (if different from street address) | City | Nevada | Zip Code

3. Dissolution Date: (optional)

Latest date upon which the company is to dissolve (if existence is not perpetual):

4. Management: (required)

Company shall be managed by: [X] Manager(s) **OR** [ ] Member(s) (check only one box)

5. Name and Address of each Manager or Managing Member: (attach additional page if more than 3)

1) GISSELLE PLATFOOT (Name)
3225 S. RAINBOW | LAS VEGAS | NV | 89146
Street Address | City | State | Zip Code

2) Name
Street Address | City | State | Zip Code

3) Name
Street Address | City | State | Zip Code

6. Name, Address and Signature of Organizer: (attach additional page if more than 1 organizer)

I declare, to the best of my knowledge under penalty of perjury, that the information contained herein is correct and acknowledge that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

JEREMY COOPER (Name) | X JEREMY COOPER (Organizer Signature)

10655 PARK RUN DR., SUITE 130 | LAS VEGAS | NV | 89144
Address | City | State | Zip Code

7. Certificate of Acceptance of Appointment of Registered Agent:

I hereby accept appointment as Registered Agent for the above named Entity.

X COOPER COONS, LTD — 7/22/2016

Authorized Signature of Registered Agent or On Behalf of Registered Agent Entity — Date

This form must be accompanied by appropriate fees.

INITIAL/ANNUAL LIST OF MANAGERS OR MANAGING MEMBERS AND STATE BUSINESS LICENSE APPLICATION OF:

VIDA SPA LLC

NAME OF LIMITED-LIABILITY COMPANY

ENTITY NUMBER

E0325412016-3

100403

FOR THE FILING PERIOD OF JUL, 2016 TO JUL, 2017

USE BLACK INK ONLY - DO NOT HIGHLIGHT

****YOU MAY FILE THIS FORM ONLINE AT www.nvsilverflume.gov****

☐ Return one file stamped copy. (If filing not accompanied by order instructions, file stamped copy will be sent to registered agent.)

Filed in the office of	Document Number
Barbara K. Cegavske Secretary of State State of Nevada	20160324669-89
	Filing Date and Time 07/22/2016 9:18 AM
	Entity Number E0325412016-3

(This document was filed electronically.)

ABOVE SPACE IS FOR OFFICE USE ONLY

IMPORTANT: Read instructions before completing and returning this form

1. Print or type names and addresses, either residence or business, for all manager or managing members. A **Manager, or if none, a Managing Member** of the LLC must sign the form. *FORM WILL BE RETURNED IF UNSIGNED.*
2. If there are additional managers or managing members, attach a list of them to this form.
3. Return completed form with the fee of $150.00. A $75.00 penalty must be added for failure to file this form by the deadline. An annual list received more than 90 days before its due date shall be deemed an amended list for the previous year.
4. State business license fee is $200.00. Effective 2/1/2010, $100.00 must be added for failure to file form by deadline.
5. Make your check payable to the Secretary of State.
6. **Ordering Copies:** If requested above, one file stamped copy will be returned at no additional charge. To receive a certified copy, enclose an additional $30.00 per certification. A **copy fee of $2.00 per page** is required for **each additional copy** generated when ordering 2 or more file stamped or certified copies. Appropriate instructions must accompany your order.
7. Return the completed form to: Secretary of State, 202 North Carson Street, Carson City, Nevada 89701-4201, (775) 684-5708.
8. Form must be in the possession of the Secretary of State on or before the last day of the month in which it is due. (Postmark date is not accepted as receipt date.) Forms received after due date will be returned for additional fees and penalties. Failure to include annual list and business license fees will result in rejection of filing.

ANNUAL LIST FILING FEE: $150.00 LATE PENALTY: $75.00 (if filing late) **BUSINESS LICENSE FEE:** $200.00 LATE PENALTY: $100.00 (if filing late)

CHECK ONLY IF APPLICABLE AND ENTER EXEMPTION CODE IN BOX BELOW

☐ Pursuant to NRS Chapter 76, this entity is exempt from the business license fee. Exemption code: ☐

NOTE: If claiming an exemption, a notarized Declaration of Eligibility form must be attached. Failure to attach the Declaration of Eligibility form will result in rejection, which could result in late fees.

NRS 76.020 Exemption Codes
001 - Governmental Entity
005 - Motion Picture Company
006 - NRS 680B.020 Insurance Co.

NAME			
GISSELLE PLATFOOT	MANAGER OR MANAGING MEMBER		
ADDRESS	CITY	STATE	ZIP CODE
3225 S. RAINBOW , USA	LAS VEGAS	NV	89146
NAME	MANAGER OR MANAGING MEMBER		
ADDRESS	CITY	STATE	ZIP CODE
NAME	MANAGER OR MANAGING MEMBER		
ADDRESS	CITY	STATE	ZIP CODE
NAME	MANAGER OR MANAGING MEMBER		
ADDRESS	CITY	STATE	ZIP CODE

None of the managers or managing members identified in the list of managers and managing members has been identified with the fraudulent intent of concealing the identity of any person or persons exercising the power or authority of a manager or managing member in furtherance of any unlawful conduct.

I declare, to the best of my knowledge under penalty of perjury, that the information contained herein is correct and acknowledge that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

X JERENY K COOPER	Title	Date
	ORGANIZER	7/22/2016 9:18:11 AM

Signature of Manager, Managing Member or Other Authorized Signature

Nevada Secretary of State List ManorMem
Revised 7-1-15

Commercial Lease Agreement

This Lease agreement is made on this 17 day of November (Month), 2017 (Year) by and between

VEGAS VALLEY CENTER, LLC (hereinafter "Landlord")

AND

VIDA SPA, LLC (hereinafter "Tenant").

In consideration for the shared promises and agreements contained herein, and for other good and valuable consideration, the parties hereby agree as follows:

1. The Landlord leases to the Tenant, and the Tenant rents from the Landlord the following stated grounds: 3225 SOUTH RAINBOW BLVD, SUITE 206, LAS VEGAS, NV 89146

2. The tenure of the Lease shall be for NOV 2017 beginning and ending NOVEMBER 1, 2025.

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5. The Tenant shall not make any amendments, additions or improvements to the building without the prior written permission of the Landlord.

6. The property-owner, at his own cost, shall equip the following utilities or facilities for the benefit of the occupant:

_____

_____

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8. The leaseholder shall meet the terms, policies, order codes and laws of all governmental establishments having authority over the property.

9. The Tenant shall not allow or engage in any activity that will affect an increase in the rate of insurance for the Building in which the property is not contained nor shall the leaseholder allow or commit any annoyance thereon.

10. The lessee shall not sublet or allocate the neither property nor consent to any other person or business to use or occupy the property without the earlier written approval of the Landlord, which permission may not be unduly withdrawn.

11. At the end of the period of this Lease, the lessee shall give in and deliver up the property in the same condition (subject to any additions, alterations or improvements, if any) as presently exists, realistic wear and tear expelled.

12. Upon evasion in any term or condition of this Lease, the owner shall have the right to embark on any or all other remedies allowable by Law.

13. This Lease shall be binding upon, and inure to the benefit of, the parties, their beneficiaries, successors, and assigns.

Signed on 1st **day of** NOV. **(Month)** 2017 **(Year)**

Tenant	***Landlord***

SECRETARY OF STATE

STATE OF NEVADA

NEVADA STATE BUSINESS LICENSE

VIDA SPA LLC

Nevada Business Identification # NV20161430784
Expiration Date: 07/31/2021

In accordance with Title 7 of Nevada Revised Statutes, pursuant to proper application duly filed and payment of appropriate prescribed fees, the above named is hereby granted a Nevada State Business License for business activities conducted within the State of Nevada.
Valid until the expiration date listed unless suspended, revoked or cancelled in accordance with the provisions in Nevada Revised Statutes. License is not transferable and is not in lieu of any local business license, permit or registration.
License must be cancelled on or before its expiration date if business activity ceases. Failure to do so will result in late fees or penalties which, by law, cannot be waived.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of State, at my office on 07/24/2020.

Barbara K. Cegavske

BARBARA K. CEGAVSKE
Secretary of State

Certificate Number: B20200724949024
You may verify this certificate online at http://www.nvsos.gov

THE OPERATING AGREEMENT
OF
VIDA SPA, LLC

Dated July ___, 2016

(A "Container" of a Series LLC under NRS § 86.296)

Prepared by:

COOPER COONS
ATTORNEYS AT LAW

10655 Park Run Drive, Suite 130
Las Vegas, Nevada 89144
(702) 998-1500

www.coopercoons.com

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OPERATING AGREEMENT
OF
VIDA SPA, LLC

THIS OPERATING AGREEMENT ("Agreement"), dated July ____, 2016, is made by **ART MATRIX, INC., a Nevada corporation and GISSELLE PLATFOOT, as Members**, for the purpose of creating the Operating Agreement of **VIDA SPA, LLC**. The parties to this Agreement are sometimes referred to hereinafter collectively as the "Member" or "Members", as the case may be. In addition, this Agreement is entered into by **GISSELLE PLATFOOT**, as Manager of the Limited Liability Company.

Witnesseth:

NOW THEREFORE, with the full acknowledgement of the facts as recited herein and in consideration of the mutual promises of the Members hereto, one to another and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed as follows:

ARTICLE I
FORMATION AND PURPOSE OF LIMITED LIABILITY COMPANY

Section 1.1 Formation of Limited Liability Company.

(a) The parties to this Agreement hereby agree to become Member(s) and to form a Limited Liability Company pursuant to the provisions of Chapter 86 of the Nevada Revised Statutes (N.R.S.) as adopted in Nevada for the limited purposes and scope set forth hereinbelow.

(b) Except as expressly provided herein, the rights and obligations of the Members and the administration and termination of the Limited Liability Company as specified herein shall be construed in accordance with N.R.S. 86.010, *et. seq.*

Section 1.2 Name of Limited Liability Company. The Limited Liability Company's business shall be conducted solely under the name of the **VIDA SPA, LLC** (hereinafter referred to as "Company").

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Section 1.3 Purposes and Scope of the Limited Liability Company.

(a) The purposes of the Company are to manage, buy, sell and otherwise deal with any and all investments and properties in whatever manner the Members shall choose. The Members further agree to acquire and have the Company manage all the appurtenant rights, easements and interests in any real property, and such activities as may be incidental thereto, and such other related business as may be agreed upon by the Members. The specifications of a particular type of business herein shall not be deemed a limitation on the general powers of the Company. The Company may own such assets as may be necessary to conduct the Company's business and may engage in any other activities or business incidental or related to furthering its general purpose.

(b) The intent of the Members is to increase the capital value of the Company and its assets and to reinvest, as opposed to distributing, Company profits to the maximum extent possible.

(c) Nothing herein contained shall be deemed in any way or manner to prohibit or restrict the right or freedom of any Member separately, as a separate entity apart from the Company, to conduct any business or activity whatsoever.

(d) No Member shall have any authority to act for or to assume any obligations or responsibility on behalf of any other Member or the Company.

Section 1.4 Articles of Organization. The Articles of Organization have been or shall be recorded in the office of the Secretary of State of the State of Nevada. The Manager agrees to execute, acknowledge, file record and/or publish as necessary, such amendments to said Articles of Organization as may be required by this Agreement or by law and such other documents as may be appropriate to comply with the requirements of law for the formation, preservation and/or operation of the Company.

Section 1.5 Principal Place of Business. The principal office and place of business of the Company shall be at **3225 S. Rainbow, Las Vegas, Nevada 89146,** or at such other place as the Members shall from time to time determine.

Section 1.6 Term of Company. The Company shall begin on the day the Articles of Organization are filed with the Secretary of State and shall have a perpetual existence or until terminated pursuant to the terms and conditions of this Agreement.

Section 1.7 Definitions – General. Capitalized words and phrases used in this Agreement have the following meanings:

(a) "Act" means Chapter 86 of the Nevada Revised Statutes, as amended from time to time (or any corresponding provisions of succeeding law).

(b) "Adjusted Capital Contribution" means, as of any day, a Member's Capital Contributions reduced by the sum of (i) any liabilities of such Member that are assumed by the Company (at any time) or that are secured by any property contributed to the Company (at the time of such contribution) by such Person and (ii) the aggregate distributions to such Member pursuant to Articles III and IX hereof. In the event any Member transfers all or any portion of its interest in accordance with the terms of this Agreement, its transferee shall succeed to the Adjusted Capital Contribution of the transferor to the extent it relates to the transferred interest.

(c) "Capital Account" means, with respect to any Member a capital account maintained as follows:

(i) By increasing such account with:

(A) such Member's Capital Contributions,

(B) the distributive share of Profits and any items of or in the nature of income or gain that are specially allocated pursuant to Article III to such Member, and

(C) the amount of any Company liabilities that are assumed by such Member or that are secured by any Company Property distributed to such member; and

(ii) By decreasing such account with:

(A) the amount of any cash (not including decreases in such Member's share of Company liabilities pursuant to Section 752(b) of the Code) and the Gross Asset Value of any other Company Property distributed to such Member pursuant to any provision of this Agreement,

(B) the distributive share of Losses and any items of or in the nature of expenses or losses that are allocated pursuant to Article III to such Member, and

ICOONS
ATTORNEYS AT LAW

(C) the amount of any liabilities of such Member that are assumed by the Company or that are secured by any property contributed to the Company by such Member.

Immediately prior to liquidation of the Company, capital accounts shall be adjusted as necessary to reflect the fair market value of assets to be distributed among the Members.

For purposes of this Section 1.7(c), liabilities are considered assumed only to the extent the assuming party is thereby subjected to personal liability with respect to such obligation, the oblige is aware of the assumption and can directly enforce the assuming party's obligation, and as between the assuming party and the party from whom the liability is assumed, the assuming party is ultimately liable.

In the event any interest in the Company is transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent that such Capital Account related to the transferred interest.

(d) "Capital Contribution" means, with respect to any Member, the amount of money and the initial Gross Asset Value of any property (other than money) contributed to the Company with respect to the interest held by such Member. For purposes of this Section, money contributed to the Company does not include increases in any Member's share of Company liabilities pursuant to Section 752(a) of the Code.

(e) "Code" means the Internal Revenue Code of 1986, as amended from time to time (or any corresponding provisions of succeeding law).

(f) "Company" means the Company.

(g) "Company Property" means all real and personal property acquired by or contributed to the Company and any improvements thereto, and shall include both tangible and intangible property.

(h) "Depreciation" means, for each fiscal year or other period, an amount equal to the depreciation, amortization or other cost recovery deduction allowable with respect to an asset for such year or other period.

(i) "Gross Asset Value" means, with respect to any asset, the asset's adjusted basis for federal income tax purposes, except as follows:

(i) The initial Gross Asset Value of any asset contributed by a Member to the Company shall be the gross fair market value of such asset, as determined by the contributing Member and the Company;

(ii) The Gross Asset Value of all Company assets shall be adjusted to equal their respective gross fair market values, as determined by the Member(s), as of the following times:

(A) the acquisition of an additional interest in the Company by any new or existing Member in exchange for more than a de minimis Capital Contribution;

(B) the distribution by the Company to a Member of more than a de minimis amount of the Member's Capital Account if the Member(s) reasonably determine that such adjustment is necessary or appropriate to reflect the relative economic interests of the Member(s) in the Company.

(j) "Manager" means a person elected by the Members of the Company to manage the Company.

(k) "Member" means any person, or entity whose name is set forth in the first paragraph of this Agreement as a Member or who has been admitted as an additional or Substituted Member pursuant to the terms of this Agreement. "Members" means all such persons or entities. All references in this Agreement to a majority in interest or a specified percentage of the Members shall mean Members holding more than 50% or such specified percentage, respectively, of the interest then held by Members.

(l) "Net Cash From Operations" means the gross cash proceeds from Company operations less the portion thereof used to pay or establish reserves for all Company expenses, debt payments, capital improvements, replacements and contingencies, all as determined by the Manager. "Net Cash From Operations" shall not be reduced by depreciation, amortization, cost recovery deductions or similar allowances.

(m) "Net Cash From Sales or Refinancing" means the net cash proceeds from all sales or other dispositions (other than in the ordinary course of business) and all refinancing of Company Property less any portion thereof used to establish reserves, all as determined by the Manager. "Net Cash From Sales or Refinancing" shall include all principal and interest payments with

respect to any note or other obligation received by the Company in connection with sales and other dispositions (other than in the ordinary course of business) of Company Property.

(n) "Person" means any individual, partnership, corporation, trust or other entity.

(o) "Profits" and "Losses" mean, for each fiscal year or other period, an amount equal to the Company's taxable income or loss for such year or period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Code Section 702(a)(1) shall be included in taxable income or loss), with the following adjustment: any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses pursuant to this Section 1.7(o) shall be added to such taxable income or loss.

(p) "Regulations" means the income tax regulations promulgated under the Code; as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

(q) "Units" means the share of interest in the Company as defined in Section 2.2 hereof.

ARTICLE II

CAPITALIZATION AND FINANCING OF THE COMPANY

Section 2.1 Percentage Interest.

(a) Initial Percentage Interest. The initial percentage interests shall be as follows:

MEMBER:	PERCENTAGE INTEREST:	UNITS:
ART MATRIX, INC.	50%	500
GISSELLE PLATFOOT	50%	500

Percentage interests express the share of property shown on the attached Schedule "B", contributed by and for the Members. The interests of the Members in the capital originally contributed are the same as listed above.

COONS
ATTORNEYS AT LAW

PHILLIPS 000062

(b) Call for Additional Capital Contributions.

(i) The Managers will have the authority to require the Members to contribute additional capital when additional capital is reasonably needed to pay existing or anticipated expenses of operation and administration; debt service for any amounts borrowed by the Company; insurance and tax payments; the cost of acquiring, maintaining and selling property of the Company.

(ii) The calls for capital shall not be discriminatory, that is, all Members shall be permitted to contribute capital to the extent of each Member's percentage interest in the Company.

(c) Remedies for Default on Mandatory Capital Call. In the event any member shall default in its obligation to make a capital contribution under a Mandatory Capital Call by the date specified therein and such default shall remain unremedied for ninety (90) days (a "Mandatory Capital Call Default") then such member shall thereafter be a "Defaulting Member" and such unpaid capital contribution under the Mandatory Capital Call shall be a "Defaulted Amount" and the Managers may take the following actions:

(i) The Managers may treat the Defaulted Amount as a loan to the Defaulting Member by the Company which shall bear interest (at the IRS Applicable Federal Rate for the month of default) commencing from the date the Defaulted Amount was initially due until the date the Defaulted Amount is fully paid to the company. The Company may retain distributions otherwise payable to the Defaulting Member and shall apply such funds to the repayment of this loan; or

(ii) When one member is a Defaulting Member, the Manager may reallocate the percentage interests of all Members, increasing the percentage interest of those who have made contributions and decreasing the percentage interest of those who did not make a full contribution within ninety (90) days from the date a call is made.

(d) Withdrawals of Capital. No Member may withdraw any part of its capital contribution or receive any distributions from the Company except upon dissolution of the Company and as specifically provided by this Agreement.

(c) Loans to Company. With the exception of Section 5.2(c) below, no Member shall lend or advance money to or for the Company's benefit without the written approval of a majority of the other Members. If any Member, with the written consent of a majority of the other Members, lends money to the Company in addition to its contribution to Company capital, the loan shall be a debt of the Company to that Member, and shall bear a market rate of interest to be approved in writing by the Members. The liability shall not be regarded as an increase of the lending Member's capital, and it shall not entitle it to any increased share of the Company's net income, distributions or voting rights.

Section 2.2 Units in the Company. Each Member shall be issued by the Company the number of Units stated in Section 2.1(a) above. Thereafter, each Member who makes an additional capital contribution to the Company shall be issued additional Units by the Company, based upon the fair market value of the property contributed and the per Unit fair market value of the Company at the time of the additional contribution. Fair market value shall be determined by mutual agreement of all the Members. The Company shall have the power to issue any number of Company Units as necessary to give effect to this Section 2.2. Company Units and Percentage Interests of each Member shall be set forth in attached Exhibit "B".

ARTICLE III

PROFITS AND LOSSES; DISTRIBUTIONS; DRAWING ACCOUNTS

Section 3.1 Interest in Profits and Losses. The Company's profits and losses shall be allocated among the Members in proportion to their respective Company percentage interests.

Section 3.2 Determination of Net Income and Net Losses. The Company's profits or losses for each fiscal year shall be determined as soon as practicable after the close of that fiscal year in accordance with Section 1.7(o).

Section 3.3 Tax Status, Allocations and Reports.

(a) Unless otherwise agreed upon by the Members, the Company shall, for tax purposes, utilize the method of depreciation which will result in the greatest amount of deduction in each year.

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(b) The Manager shall prepare, or cause to be prepared, all tax returns which must be filed on behalf of the Company with any taxing authority and make timely filing thereof. The cost thereof shall be borne by the Company.

(c) For accounting and federal and state income tax purposes, all income, deductions, credits, gains and losses of the Company shall be allocated to the Members in proportion to their respective Membership percentage interest. Any item stipulated to be a Company expense under the terms of this Agreement, or which would be so treated in accordance with generally accepted accounting principles, shall be treated as a Company expense for all purposes hereunder, whether or not such item is deductible for purposes of computing net income for federal income tax purposes.

(d) In the event that the Company has taxable income that is characterized as ordinary income under the recapture provisions of the Code, each Member's distributive share of taxable gain or loss from the sale of Company assets (to the extent possible) shall include a proportionate share of this recaptured income equal to the Member's share of prior cumulative depreciation deductions with respect to the assets which gave rise to the recapture income.

Section 3.4 Tax Allocations: Code Section 704(c). In accordance with Code Section 704(c) and the Regulations thereunder, income, gain, loss and deduction with respect to any property contributed to the capital of the Company shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such property to the Company in accordance with Section 1.7(i) hereof.

In the event the Gross Asset Value of any Company asset is adjusted pursuant to Section 1.7(i) hereof, subsequent allocations of income, gain, loss and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its Gross Asset Value in the same manner as under Code Section 704(c) and the Regulations thereunder.

Any elections or other decisions relating to such allocations shall be made by the Manager in any manner that reasonably reflects the purpose and intention of this Agreement. Allocations pursuant to this Section 3.4 are solely for the purposes of federal, state and local taxes and shall not affect, or in any way be taken into account in

computing, any Member's Capital Account or share of Profits, Losses, other items or distributions pursuant to any provision of this Agreement.

Notwithstanding the preceding allocations, and to the extent the Manager deems it necessary to insure that the Operating Agreement and the allocations thereunder meet the requirements of the Code and the allocation regulations, allocations of the following type and in the following priority will be made to the appropriate Members in the necessary and required amounts as set forth in the Regulations before any other allocations under this Article III.

(a) Member nonrecourse debt minimum gain chargeback under the Regulations;

(b) In the event any Members unexpectedly receive any adjustments, allocations, or distributions described in various Regulations sections, items of Company income and gain to such Members in an amount and manner sufficient to eliminate the deficit balances in their Capital Accounts (excluding from such deficit balance amounts Members are obligated to restore under this Agreement.)

(c) Member nonrecourse deductions under Regulations Section 1.704-2(i) which will in all cases be allocated to the Member which bears the economic risk of loss for the indebtedness to which such deductions are attributable.

Section 3.5 Code Section 754 Adjustment. To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Code Section 734(b) or Code Section 743(b) is required, pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated to the Members in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to such Section of the Treasury Regulations.

Section 3.6 Company Expenses. All legal fees (except legal fees and expenses incurred by each member individually in connection with the formation and organization of the Company) architectural, engineering, consulting and other similar fees and

expenses reasonably incurred by the Manager in connection with the operation of the Company shall be deemed Company expenses and shall be reimbursed out of Company funds when such expenses and fees have been approved by the Manager.

Section 3.7 Net Cash From Sales or Refinancing. Except as otherwise provided in this Agreement, Net Cash From Sales or Refinancing shall be distributed, at such times as the Manager may determine, to the Members in proportion to their Company membership percentage interests.

Section 3.8 Cash Distribution to Members.

(a) The term "distributable funds" shall mean the amount by which the total of the cash on hand and in the Company's bank accounts (excluding net cash derived from sales or refinancing) is in excess of the reasonable cash requirements and repair and replacement reserves of the Company. The cash requirements shall include, but not be limited to, the amounts reasonably (in accordance with generally accepted accounting procedures) required for taxes, insurance premiums, debt service and other expenses of the Company. In addition, reasonable cash requirements shall include reserves for future acquisitions and development of real estate and other Company business and investment interests.

(b) The Company's distributable funds shall be determined and distributed at such times as the Manager may in its sole discretion determine that funds are available and earnings may be retained by the Company and transferred to Company Capital for the reasonable needs of the business as determined in the sole discretion of the Manager. Any distributions shall be in the following order of priorities:

(i) To Member(s) in proportionate amounts sufficient to cover taxes owed by the Members as a result of the income and operations of the Company. In making this distribution the highest income tax rate for married individuals filing jointly shall be assumed for each Member.

(ii) To make payments on any outstanding loans by any Member to the Company in accordance with the terms of said loans.

(iii) Finally, any remaining distributable funds shall be given to each Member according to his Capital Account balance.

Section 3.9 Taxation Classification of Company. The Company shall be presumed to be taxed as a partnership pursuant to income tax regulations §§ 301.7701-1 through 301.7701-3. However, should the Company, pursuant to N.R.S. 86.151, be organized or exist with one member, the partnership tax provisions as set forth in this agreement shall be suspended and the Company shall be presumed to be taxed as a sole proprietorship. If a one member Company ever adds another member to the Company the provisions in the agreement relating to partnership taxation shall thereupon be reinstated.

ARTICLE IV

LIMITED LIABILITY COMPANY ACCOUNTING; MEETINGS

Section 4.1 Fiscal Year; Accounting Method. The Company's fiscal year shall be from January 1 to December 31, and income or losses shall be reported on a cash basis for tax purposes.

Section 4.2 Company Books.

(a) Proper and complete books of account of the Company business shall be kept at the Company's principal place of business or such other place as the Manager shall designate. The books of account shall be maintained on a cash basis.

(b) Each Member, at its sole cost and expense, shall have the right at all times during usual business hours to audit, examine and make copies of or extracts from the Company's books of account. Such right may be exercised through any agent or employee of such Member designated by that Member or by an independent certified public accountant designated by such Member. The Member exercising such right shall bear all expenses incurred in any such examination made on the Member's behalf.

Section 4.3 Capital Accounts. An individual capital account shall be maintained for each Member, and the balance of said account shall be determined in accordance with 1.7(c) above.

Section 4.4 Bank Accounts. Funds of the Company shall be deposited in a Company account or accounts in the bank or banks approved by the Manager.

Withdrawals from such bank accounts shall be made only by parties previously approved, in writing, by the Manager.

Section 4.5 Annual Report. Within ninety (90) days after the end of each fiscal year of the Company or within such longer period as is reasonably necessary, the Manager shall make available to each Member an annual report. This report shall consist of a least (i) a copy of the Company's federal income tax returns for that fiscal year, and (ii) any additional information that the Members may require for the preparation of their federal and state income tax returns.

Section 4.6 Company Meetings. In the sole discretion of the Manager or upon the written request of a majority of the Members, a meeting may be held for all Members. The Manager shall review and discuss the financial statements at the meeting and report to the Members the financial condition of the Company. Upon the determination that the annual meeting shall take place; it shall be held at a place and time designated by the Manager. All Members shall receive prior notice of the date, time, and place of the meeting.

ARTICLE V

RIGHTS, POWERS AND DUTIES OF MANAGER(S)

Section 5.1 Authority of the Manager. The business of the Company shall be under the exclusive control and management of the Manager(s) who shall act by a majority vote in all business affairs. For these purposes a Manager shall have one vote. The Members shall not participate in the management of the business of the Company. The Managers shall have the right and power to:

(a) Acquire land, buildings or any other interest in real estate;

(b) Acquire by purchase, lease or otherwise any personal property which may be necessary, convenient or incidental to the accomplishment of the purposes of the Company;

(c) Execute any and all agreements, contracts, documents, certifications, and instruments necessary or convenient in connection with the management, maintenance and operation of the Company Property;

(d) Care for and distribute funds to the Members by way of cash, income, return of capital or otherwise, all in accordance with the provisions of this Agreement, and perform all matters in furtherance of the objectives of the Company or this Agreement;

(e) Contract on behalf of the Company for the employment and services of employees and/or independent contractors and delegate to such persons the duty to manage or supervise any of the assets or operations of the Company;

(f) Borrow money, mortgage or encumber Company Property in order to further the purposes of the Company;

(g) Sell or otherwise transfer Company Property or any part or parts thereof;

(h) Engage in any kind of activity and perform and carry out contracts of any kind (including contracts of insurance covering risks to Company Property and Manager liability) necessary or incidental to, or in connection with, the accomplishment of the purposes of the Company, as may be lawfully carried on or performed by a Company under the laws of each state in which the Company is then formed or qualified;

(i) Make any and all elections for federal, state and local tax purposes including, without limitation, any election, if permitted by applicable law:

(i) to adjust the basis of Company Property pursuant to Code Sections 754, 734, 743, or comparable provisions of state or local law, in connection with transfers of Membership interests and distributions to Members,

(ii) to extend the statute of limitations for assessment of tax deficiencies against Members and Membership interest holders in their capacity as Members and Membership interest holders, and

(iii) to execute any agreement or other documents relating to or affecting such tax matters or otherwise affect the rights of the Company, Members and Membership interest holders. The Manager(s) are specifically authorized to act as the "Tax Matters Partners" under the Code and in any similar capacity under state or local law.

(j) Select or vary depreciation and accounting methods and make other decisions with respect to treatment of various transactions for

federal income tax purposes, consistent with the other provisions of this Agreement;

(k) Invest and reinvest principal and income in such securities and properties as the Manager shall determine. The Manager is authorized to acquire, for cash or on credit (including margin accounts), every kind of property, real, personal or mixed, and every kind of investment (whether or not unproductive, speculative, or unusual in size or concentration), specifically including, but not by way of limitation, deeds of trust, corporate or governmental obligations of every kind and stocks, preferred or common, of both domestic and foreign corporations, shares or interests in any unincorporated association, Trust, or investment company, including property in which the Manager is personally interested or in which a Manager owns an interest;

(l) Have the power to invest Company assets in securities of every kind, including debt and equity securities, to buy and sell securities, to write covered securities options on recognized options exchanges, to buy-back covered securities options listed on such exchanges, to buy and sell listed securities options, individually and in combination, employing recognized investment techniques such as, but not limited to, spreads, straddles, and other documents, including margin and option agreements which may be required by securities brokerage firms in connection with the opening of accounts in which such option transactions will be effected. In addition, the Manager shall have the power to buy and sell stock rights and stock warrants;

(m) Determine whether or not distributions should be made to the Members, except as may specifically be set forth elsewhere in this Agreement; or

(n) Determine the maximum and minimum cash requirements of the Company.

(o) If the Company shall own any life insurance policy insuring the life of any Member or possess any incident of ownership, with respect to any such policy, the insured Member shall have no right or power to exercise or to participate in the exercise of any of the incidents of ownership, with respect to such policy, including, but not limited to, the right to borrow from the insurance company or any other person using such policy as collateral, to change or to prevent any change in the beneficiary designation under such policy, and to surrender the policy or any portion thereof for its cash surrender value or to cancel or terminate any such policy. Any exercise of any incident or ownership in any such policy shall

be exercised only by a majority of the Members other than the insured Member. Any decision of the Company to acquire or dispose of a life insurance policy insuring the life of any Member shall be made by a majority in interest of the Members other than the insured Member and without any participation by the insured Member.

Section 5.2 Authority to Pay Certain Fees and Expenses. The Members hereby acknowledge that in certain instances there may be certain circumstances that make it appropriate for the Company to contract for the performance of services or the purchase, sale or other disposition of goods or other property, by or with some other party or entity related to or affiliated with the Members, or any one of them, or with respect to any entity to which the Members or any one of them may have a direct or indirect ownership or controlling interest; however, in each such instance:

(a) Any such services, goods or property obtained from any such person or entity shall be on terms no less favorable to the Company than those reasonably available from third parties.

(b) The sale, lease or other transfer of any portion of the Property to any such person or entity shall be on terms and at a price no less favorable to the Company than those reasonably available to third parties.

(c) A Member shall be reimbursed by the Company for the reasonable out-of-pocket expenses incurred by such Member of behalf of the Company in connection with the Company's business and affairs upon presentment of proper receipts and invoices.

Section 5.3 Waiver of Self-Dealing.

(a) The Manager(s) shall have the authority to enter into any transaction on behalf of the Company despite the fact that another party to the transaction may be (1) a trust of which a Member is a trustee or beneficiary; (2) an estate of which a Member is a personal representative or beneficiary; (3) a business controlled by one or more Members or a business of which any Member is also a director, officer or employee; (4) any affiliate, employee, stockholder, associate, manager, partner, Member or business associate; (5) any Member, acting individually; or (6) any relative of a Member; provided the terms of the transaction are no less favorable than those the Company could obtain from unrelated third parties.

(b) A Member may engage in or possess an interest in any other business or venture of any nature and description, independently or with others, including ones in competition with the Company, with no obligation to offer to the Company or any other Member the right to participate. Neither the Company nor its Members shall have by virtue of this Agreement any right in any independent venture or its income or Profits.

Section 5.4 Right to Rely on Manager. Any Person dealing with the Company may rely upon a certificate signed by all of the Members as to:

(a) The identity of the Manager;

(b) The existence or nonexistence of any fact or facts which constitute a condition precedent to acts by a Manager or which are in any other manner germane to the affairs of the Company;

(c) The Persons who are authorized to execute and deliver any instrument or document of the Company; or

(d) Any act or failure to act by the Company or any other matter whatsoever involving the Company or any Member.

Section 5.5 Bond. No one serving as a Manager will be required to furnish a fiduciary bond or other security as a prerequisite to his, her or its service.

Section 5.6 Fiduciary Duties. The Manager(s) shall manage and control the affairs of the Company to the best of their ability, and the Manager(s) shall use their best efforts to carry out the purposes of the Company for the benefits of all the Members. In exercising their powers, the Manager(s) recognize their fiduciary responsibilities to the Company. The Manager(s) shall have fiduciary responsibility for the safekeeping and use of all funds and assets of the Company, whether or not in their immediate possession and control. The Manager(s) shall not employ, or permit another to employ, such funds or assets in any manner except for the exclusive benefit of the Company and its Members. The Manager(s) shall comply with all rules, regulations, and duties incumbent upon a Manager acting in its fiduciary capacity on behalf of the Company and the Members and shall be liable for any breach of such fiduciary duties, whether any such breach is willful or negligent.

ARTICLE VI

SALARY TO MANAGER

It is the intention of all the Members that each Manager may receive a reasonable compensation for services rendered to the Company. Therefore, the Manager(s) may receive a reasonable salary for services rendered, payable at least annually. If paid, this salary shall be in addition to their respective share of the Company's profits. The amount of compensation paid to a Manager may be reviewed and adjusted periodically.

ARTICLE VII

ROLE AND LIABILITY OF MEMBERS

Section 7.1 Rights or Powers. Except as otherwise set forth in Section 7.2 below, the Members shall have no rights or powers to take part in the management and control of the Company and its business and affairs.

Section 7.2 Voting Rights. The Members shall have the right to vote on the matters explicitly set forth in this Agreement. Those matters to be voted on by the Members can be done by written consent. Such a written consent may be utilized at any meeting of the Members, or it may be utilized in obtaining approval by the Members without a meeting.

Section 7.3 Liability of Members. No Member shall have any personal liability whatsoever to the creditors of the Company for the debts of the Company or any losses beyond its capital contribution.

In accordance with Nevada law, a Member may, under certain circumstances, be required to return to the Company, for the benefit of Company creditors, amounts previously distributed to it as a return of capital. For purposes of this Section 7.3, the Members intend that no distribution to any Member of distributable funds or of the proceeds of any sale or financing shall be deemed a return or withdrawal of capital, even if such distribution represents, for federal income tax purposes or otherwise (in whole or in part), a return of capital, and that no Member shall be obligated to pay any such amount to or for the account of the Company or any creditor of the Company. However,

if any court of competent jurisdiction holds that, notwithstanding the provisions of the Agreement, any Member is obligated to make any such payment; such obligation shall be the obligation of such Member and not of the Manager.

Section 7.4 Representations of Members. Each Member hereby represents and warrants to the other Members and to the Company that such Member:

(a) Understands and agrees that its interest in the Company has not been registered under the Securities Act of 1933 or any similar state law regulating the offer or sale of securities and, therefore, such interest may not be transferred except in accordance with an effective registration under such Act and state law, or pursuant to an available exemption therefore;

(b) Takes its interest for its own account and not with any intent towards the resale or distribution thereof;

(c) Has read and fully understands and agrees to be bound by all of the terms and provisions of the Agreement;

(d) To the extent that such Member has had any questions with respect to the Company, this Agreement or any other matter bearing upon such Member's decision to enter into the Company, has had a full and complete opportunity to make inquiry of the Managers and has had all of its questions answered to its full and complete satisfaction;

(e) Is capable of evaluating the relative merits and risks presented by an investment in the Company, and to the extent the Member has desired to do so, the Member has consulted with its own independent legal, tax and investment advisers, and has determined that the investment in the Company is suitable to the Member, both in terms of its investment objectives and in terms of its financial situation; and

(f) Understands that the investment in the Company is a high risk, illiquid investment, that transfer of the Membership interest is restricted pursuant to the Company Operating Agreement, and that there presently exists no market for the Membership Interest and it is unlikely that one will develop; that transfers, offers or sales of the Membership Interest are subject to the restrictions and conditions of the Securities Act of 1933, among which are included a requirement that, prior to a transfer, offer, or sale, either a registration statement under such act and under the applicable state securities laws be filed covering interests in the Company, or

an exemption from registration under such act and under such state securities laws is available.

Any other provision of the Agreement to the contrary notwithstanding, each Member agrees that such Members will not sell, assign or otherwise transfer all or any portion of it interest in the Company to any Person who does not similarly represent and warrant and similarly agree not to sell, assign or transfer such interest, or portion thereof, to any Person who does not similarly represent, warrant and agree.

ARTICLE VIII

SALE OF A LIMITED LIABILITY COMPANY MEMBERSHIP INTEREST

Section 8.1 Sale of Interest of Member. A Member may sell his Membership interest, but only after he has first offered it to the Company or other Members and under the conditions as follows:

(a) The Member shall give written notice to the Company that he desires to sell his interest. He shall attach to that notice the written offer of a prospective purchaser. This offer shall be complete in all details of purchase price and terms of payment. The Member shall certify that the offer is genuine and in all respects what it purports to be.

(b) For one hundred twenty (120) days from receipt of the written notice from the Member, the Company shall have the option to retire the interest of the Member at the price and on the terms contained in the offer submitted by the Member.

(c) If the offer is rejected in whole or in part by the Company, the interest or the remaining interest of the Member shall next be offered in writing to the other Members for a period of thirty (30) days next following the expiration of the one hundred twenty (120) day period. The offer to the other Members shall be prorated in accordance with the ratio of the Membership interests of each Member to the total Membership interest of all of the Members other than the one making the offer, on the terms and at prices (as to each offeree) determined by pro-rating the price. If not all the remaining interest is disposed of under the apportionment, each Member desiring to purchase a portion of the remaining interest shall be entitled to purchase the portion that remains undisposed of as his interest in the Company determined under Article III bears to the interest in the capital of the Company of all other Members desiring to purchase portions of the remaining interest. Any

unaccepted Membership interest shall continue to be offered to all Members who have not rejected any of the pro-rata interests offered to them until all the Membership interest has been purchased or the remaining Membership interest has been rejected by all Members. Each offer period following the initial 30-day period provided for above shall continue for only fifteen (15) days following expiration of the prior offer period.

(d) Notwithstanding the foregoing in 8.1(b) and 8.1(c) above, the purchaser(s) of the Membership interests shall have the options to make payment for the interest as follows:

(i) The Company or Members purchasing the interest shall be entitled to pay upon closing an amount equal to the present value of the offer made by the prospective purchaser, discounted at the average of the prevailing prime rate of the three largest banks in Nevada, less one (1) percent; or

(ii) The Company or Members purchasing the interest may pay ten percent (10%) of the total purchase price on closing, and the balance payable over a period of time not in excess of ten years, as evidenced by an installment promissory note, payable in equal annual installments over the term of the note, the first annual payment coming due on the date which is one (1) year from the closing date of sale of the Membership interest, bearing interest at the average of the then prevailing prime rate of the three largest banks in Nevada, less one (1) percent.

(e) If the Company or other Members do not exercise the option to acquire his interest, the Member shall be free to sell his Membership interest to the said prospective purchaser for the price, and on the terms contained in the certified offer submitted by the Member.

(f) Any sale or transfer or purported sale or transfer of any Membership interest shall be null and void unless made strictly in accordance with the provisions of this Article. The transferee of any Member's interest in the Company shall be subject to all the terms, conditions, restrictions and obligations of this Agreement, including the provisions of this Article VIII.

Section 8.2 Assignment. A Member may make a gratuitous assignment of his Membership interest to other Members without the consent of any other Member. A Member may sell his Membership interest to other Members in the same manner as provided in 8.1, as though the purchasing Member were a third-party purchaser.

Section 8.3 Estate Planning Transfers. A Member will also have the right to make estate planning transfers of all or any part of his or her ownership interest in the Company. The term "estate planning transfer" will mean any transfer (a) by any Member on account of such Member's death to a transferee permitted under this Section 8.3; (b) by a Member to a trust for the benefit of, or a corporation or partnership at least eighty percent (80%) of the equity of which is owned by the Member, the Member's spouse or Lineal Ancestors or Lineal Descendants of the Members; (c) by way of dissolution or liquidation to the beneficiaries or equity owners of a trust, corporation or partnership that would qualify as a transferee under clause (b) of this sentence; or (d) in respect to any individual Member, the transfer or assignment by gift of bequest to such Member's Lineal Ancestors or Lineal Descendants. In the event of any transfer pursuant to this Section, the Assignee Member shall be bound by this Agreement. In no event, however, shall any transfer pursuant to this Section 8.3 relieve the transferor of any of its obligations under this Agreement.

Section 8.4 Unauthorized Transfers. The Company will not be required to recognize the interest of any transferee who has obtained a purported interest as the result of a transfer of ownership which is not an authorized transfer. If the ownership of a Membership interest is in doubt, or if there is reasonable doubt as to who is entitled to a distribution of the income realized from a Membership interest, the Company may accumulate the income until this issue is fully determined and resolved. Accumulated income will be credited to the capital account of the Member whose interest is in question.

Section 8.5 Substituted Member. No assignee or transferee of the whole or any portion of a Member's interest in the Company shall have the right to become a substituted Member in place of his assignor unless all of the following conditions are satisfied:

(a) The Manager(s), and a majority in interest of all the Members (not including any assignee of a Membership interest) have consented in writing to the admission of the assignee as a substituted Member;

(b) The fully executed and acknowledged written instrument of assignment which has been filed with the Company sets forth the intention of the assignor that assignee become a substitute Member;

(c) The assignor and assignee execute and acknowledge such other instruments as the Manager(s) may deem necessary or desirable to effect such admission, including the written acceptance and adoption by the assignee of the provisions of this Agreement; and

(d) A reasonable transfer fee, not exceeding $1,000.00, has been paid by assignee to the Company.

The Manager will be required to amend the Agreement of the Company only annually to reflect the substitution of Members. Until the Agreement of the Company is so amended, an assignee shall not become a substituted Member.

The death, legal incapacity, bankruptcy, or dissolution of a Members shall not cause a dissolution of the Company, but the rights of such Member to share in the income or loss of the Company and to receive distributions shall, on the happening of such an event, devolve on his personal representative, or in the event of the death of one whose Membership Interest is held in joint tenancy, pass to the surviving joint tenants, subject to the terms and conditions of this Agreement. However, in no event shall such personal representative or surviving joint tenant become a substituted Member solely by reason of such capacity. It is understood that each of the Members who are individuals will have made provision for a testamentary disposition of their Interest in the Company to a transferee(s) permitted under Section 8.3, so that upon death their beneficiary or beneficiaries will be directed to accede to the Membership Interest and this Agreement. If a Member's death results in a transfer that is not in compliance with this understanding, the interest of the deceased member shall be treated as an interest passing to an unapproved transferee and shall be specifically subject to the terms and conditions of Section 8.7 below. The estate of the Member shall be liable for all the obligations of the deceased or incapacitated Member.

Except as specifically provided in Section 8.9, in the event a vote of the Members shall be taken pursuant to this Agreement for any reason, a Member shall, solely for the purpose of determining the number of Membership interests held by him in weighing his

vote, be deemed the holder of any Membership interest assigned by him in respect of which the assignee has not become a substituted Member.

Section 8.6 Non-Registration of Securities. The ownership and transfer of a limited liability company interest is further subject to the following disclosure and condition:

> **THE LIMITED LIABILITY COMPANY MEMBERSHIP INTERESTS OF VIDA SPA, LLC HAVE NOT BEEN, NOR WILL BE, REGISTERED OR QUALIFIED UNDER FEDERAL OR STATE SECURITIES LAWS. THE LIMITED LIABILITY COMPANY INTERESTS OF VIDA SPA, LLC MAY NOT BE OFFERED FOR SALE, SOLD, PLEDGED OR OTHERWISE TRANSFERRED UNLESS SO REGISTERED OR QUALIFIED, OR UNLESS AN EXEMPTION FROM REGISTRATION OR QUALIFICATION EXISTS. THE AVAILABILITY OF ANY EXEMPTION FROM REGISTRATION OR QUALIFICATION MUST BE ESTABLISHED BY AN OPINION AND COUNSEL FOR THE OWNER THEREOF, WHICH OPINION AND COUNSEL MUST BE REASONABLY SATISFACTORY TO VIDA SPA, LLC.**

Section 8.7 Purchase of Membership Interests from Unapproved Transferees. If any person or agency should acquire an interest of the Company as the result of an order of a court of competent jurisdiction including, but not limited to, an order incident to divorce, insolvency, or bankruptcy of a Member which order the Company is required to recognize, or if a Manager or Member makes an unauthorized transfer of a Membership interest which the Company is required to recognize, the interest of the transferee may then be acquired by the Company upon the following terms and conditions:

(a) The Company will have the option to acquire the interest by giving written notice to the transferee of it intent to purchase within 90 days from the date it is finally determined that the Company is required to recognize the transfer.

(b) The Company will have 180 days from the first day of the month following the month in which it delivers notice exercising its option to purchase the interest. The valuation date for the Membership interest will be the first day of the month following the month in which the notice is delivered.

(c) Unless the Company and the transferee agree otherwise, the fair market value of a Membership interest is to be determined by the written appraisal of a person or firm qualified to value this type of business. In the event the parties cannot agree upon one appraiser, then the buyer and seller of the Membership interest shall each select an appraiser ("Appraiser 1" and "Appraiser 2" respectively); the two appraisers shall jointly select a third appraiser ("Appraiser 3"). The value arrived at by appraisal shall be determined by Appraiser 1 and Appraiser 2 submitting their separate appraisals to Appraiser 3. Appraiser 3 shall independently review the appraisals and shall select one appraisal between the two appraisals submitted as the appraisal which, in the opinion of Appraiser 3, best represents the value of the limited liability company, and that appraisal so selected shall be used to determine the value of the limited liability company interest being sold pursuant to this Section 8.7. All appraisals shall include adjustments to recognize appropriate valuation discounts, including but not limited to discounts for marketability and lack of control.

(d) Closing of the sale will occur at the registered office of the Company at 10:00 o'clock a.m. on the first Tuesday of the month following the month in which the valuation report is completed and delivered to the parties to the sale. During the period of time prior to the closing date, the transferee will be considered a non-voting owner of the Membership interest.

(e) In order to reduce the burden upon the resources of the Company, the Company will have the option, to be exercised in writing delivered at closing, to pay its purchase money obligation in 10 equal annual installments (or the remaining term of the Company if less than 10 years) with interest thereon at market rates, adjusted annually as of the first day of each calendar year at the option of the Manager. The term "market rates" will mean that average of the rates of interest prescribed as their "prime rate" by the three largest banks in the State of Nevada on the first day of the then calendar year, less one percent (1%). If Internal Revenue Code Sections 483 and 1274A apply to this transaction, the rate of interest of the purchase money obligation will be fixed at the rate of interest then required by law. The first installment of principal, with interest due thereon, will be due and payable on the first day of the calendar year following closing, and subsequent annual installments, with interest due thereon, will be due and payable, in order, on the first day of each calendar year which follows until the entire amount of the obligation, principal and interest, is fully paid. The Company will have the right to prepay all or any part of the purchase money obligation at any time without premium or penalty.

(f) The Manager may assign the Company's option to purchase to one or more of the remaining Members (this with the affirmative consent of no less than 50% of the remaining Members, excluding the interest of the Member or transferee whose interest is to be acquired), and when done, any rights or obligations imposed upon the Company will instead become, by substitution, the rights and obligations of the Members who are assignees.

(g) Neither the transferee of an unauthorized transfer nor the Member causing the transfer will have the right to vote during the prescribed option period or, if the option to purchase is timely exercised, until the sale is actually closed.

Section 8.8 Conditions of Transfer of Member's Interest. Subject to any restrictions on transferability required by law or contained elsewhere in this Agreement, all transfers of Membership interests shall be subject to the following restrictions, conditions, terms, duties, and obligations:

(a) The assignee meets all of the requirements applicable to a Substituted Member and consents in writing in a form satisfactory to the Manager to be bound by the terms of this Agreement;

(b) The Manager(s) consent in writing to the assignment, which consent shall be withheld only if such assignment does not comply with Section 8.7(a), if such assignment is to a tax-exempt entity or a nonresident alien, or if such assignment would jeopardize the status of the Company as a Partnership for federal income tax purposes, would cause the Company to be terminated under Code Section 708, or would violate, or cause the Company to violate, any applicable law or governmental rule or regulation, including without limitation, any applicable federal or state securities law; and

(c) If requested by a majority of the Members, an opinion from counsel for the Company is delivered to the Manager(s) at the expense of the transferring Member stating that, in the opinion of said counsel, such assignment would not jeopardize the status of the Company as a partnership for federal income tax purposes, would not cause the termination of the Company under Code Section 708, and would not violate, nor cause the Company to violate, any applicable law or governmental rule or regulation, including without limitation, any applicable federal or state securities law.

(d) By executing this Agreement, each Member shall be deemed to have consented to any assignment consented to by the Manager(s).

Anything herein to the contrary notwithstanding, in no event shall an assignment be made to a minor or to an incompetent (except in trust or pursuant to the Uniform Transfers to Minors Act).

(e) Each Member agrees that he will, upon request of the Manager(s), execute such certificates or other documents and perform such acts as the Manager(s) deem appropriate after an assignment of the Member's Interest to preserve the limited liability status of the Company under the laws of the jurisdictions in which the Company is doing business. For purposes of this Section 8.8, any transfer of any interest in the Company, whether voluntary or by operation of law, shall be considered an assignment.

(f) Each Member agrees that he will, prior to the time the Manager(s) consent to an assignment of any interest by that Member, pay all reasonable expenses, including attorneys' fees, incurred by the Company in connection with such assignment.

(g) Each of the Members, by executing this Agreement, hereby covenants and agrees that he will not, in any event, sell or distribute any interest unless, in the opinion of counsel to the assignee (which counsel and opinion shall be satisfactory to counsel for the Company), such interest may be legally sold or distributed in compliance with then-applicable federal and state statutes.

(h) Anything herein to the contrary notwithstanding, both the Company and the Manager(s) shall be entitled to treat the assignor of an interest as the absolute owner thereof in all aspects, and shall incur no liability for distributions made in good faith to him, until such time as a written assignment that conforms to the requirements to this Article VIII has been received by the Company and accepted by the Manager(s).

ARTICLE IX

DURATION OF BUSINESS; DISSOLUTION

Section 9.1 Duration. The Company shall continue:

(a) Until all interests in the property acquired by it have been sold or disposed of, or have been abandoned; or

(b) Until dissolved and terminated as provided for hereinbelow.

Section 9.2 Termination of the Company. The Manager may terminate the interest of a Member and expel him:

(a) For interfering in the management of the Company affairs or otherwise engaging in conduct which could result in the Company losing its tax status as a partnership;

(b) If the conduct of a Member tends to bring the Company into disrepute or his interest becomes subject to attachment, garnishment, or similar legal proceedings; or

(c) For failing to meet any commitment to the Manager in accordance with any written undertaking.

In each of the foregoing events, the termination shall not result in the forfeiture to the Member of the value of his interest in the Company at the time of termination.

Section 9.3 Dissolution of Company. The Company shall be dissolved only upon the occurrence of any of the following events:

(a) The written consent or affirmative vote to dissolve the Company of all the Manager(s) and at least 90% of the then outstanding Membership interests.

(b) The failure to elect a successor to the Manager within 180 days of the death, resignation or removal of the surviving Manager in accordance with Section 10.5.

(c) Voluntary dissolution of the Company by agreement of all of the Members.

(d) The entry of a dissolution decree or judicial order by a court of competent jurisdiction or by operation of law.

Section 9.4 Reformation of Company. In the event of dissolution, the Members owning more that 50% of the then outstanding Membership interests may determine to re-form the Company and elect a new Manager in place of the Manager and continue the Company's business. In such event, the Company shall be dissolved and all of its assets and liabilities shall be contributed to a new Company which shall be formed and all parties to this Agreement and such new Manager shall become parties to such new Company. For purposes of obtaining the required vote to re-form the Company, Members owning 10% or more of the then outstanding Membership interests may cause to be sent to Members of record, as of a date no more than twenty (20) days prior to the date fixed by such Members for holding a Company meeting, a notice setting forth the

purpose of the meeting. Expenses incurred in the reformation, or attempted reformation, of the Company shall be deemed expenses of the Company.

Section 9.5 Distribution Upon Termination. In the event of dissolution and final termination, the Manager shall wind up the affairs of the Company, shall sell all the Company assets as promptly as is consistent with obtaining, insofar as possible, the fair value thereof, and after paying all liabilities, and including all costs of dissolution, and subject to the right of the Manager to set up cash reserves to meet short-term Company liabilities and other liabilities or obligations of the Company, shall distribute the remainder ratably to the Members pursuant to the relevant provisions of this Agreement.

Section 9.6 Procedure Upon Dissolution. On any dissolution and termination of the Company under this Agreement or applicable law, except as otherwise provided in this Agreement, the continuing operation of the Company's business shall be confined to those activities reasonably necessary to wind up the Company's affairs, discharge its obligations, and either liquidate the Company's assets and deliver the proceeds of liquidation or preserve and distribute its assets in kind promptly on dissolution. A notice of dissolution shall be published under applicable Nevada law, or as otherwise appropriate.

Section 9.7 Winding Up of the Company. Upon the dissolution of the Company, the proceeds from the liquidation of the assets of the Company and collection of the receivables of the Company, together with the assets distributed in kind, to the extent sufficient therefore, shall be applied and distributed in the following order of priority:

(a) To the payment and discharge of all the Company's debts and liabilities and the expenses of liquidation;

(b) To the creation of any reserves which the Members deem necessary for any contingent or unforeseen liabilities or obligations of the Company;

(c) To the payment and discharge of all of the Company's debts and liabilities owing to Members, but if the amount available for payment is insufficient, then pro rata in proportion to the amount of the Company debts and liabilities owing to each Member;

(d) To the Members according to their respective Company capital accounts.

Section 9.8 Gains or Losses in Process of Liquidation. Any gain or loss on disposition of Company properties in the process of liquidation shall be credited or charged to the Members in the proportions of their interests in profits or losses as determined under Article III. Any property distributed in kind in the liquidation shall be valued and treated as though the property was sold and the cash proceeds were distributed. The difference between the value of the property distributed in kind and its book value shall be treated as a gain or loss on sale of the property and shall be credited or charged to the Members in the proportions of their interests in profits and losses as specified in Article III, subject, however, to any allocation of gain or loss which may otherwise be required under the Internal Revenue Code of 1986, as amended.

Section 9.9 Company Continuity. For so long as the Company shall exist, each Member waives the right to compel dissolution of the Company or to compel a partition of the property of the Company. No Member will have an ownership interest in the property of the Company. The Company, as an entity for federal income tax purposes and for state law purposes, will not terminate by reason of:

(a) The death, disability, bankruptcy or insolvency of a Member;

(b) The addition of a Manager or Member or the death, disability, removal, resignation or other act of withdrawal of a Manager or Member, unless at the conclusion of 180 days from the act of withdrawal, the Company does not, in fact, have at least one Manager or Member;

(c) The withdrawal or expulsion of a Member unless there are no remaining Members; or,

(d) Any other act or omission to act, not having the approval or consent of all Members, which is or may be construed to be a termination of the Company as an entity under Nevada law.

To the greatest extent permitted by Nevada law, any act or omission to act shall be resolved in favor of a continuation of the Company, without the requirement of liquidation and winding up.

ARTICLE X

REMOVAL, WITHDRAWAL AND ADMISSION OF SUCCESSOR MANAGERS

Section 10.1 Manager. The Manager of the Company shall be **GISSELLE PLATFOOT.**

Section 10.2 Cessation. A person shall cease to be a Manager upon the removal or withdrawal in accordance with this Section, Section 10.3 and 10.4 hereof, dissolution, legal incapacity, bankruptcy, death, adjudication of incompetence or any of the other events set forth in the Act and all of such Manager's rights and powers as a Manager shall be terminated, and such person shall cease to be a Manager. Any of the remaining Managers shall have the right to continue the business of the Company.

Section 10.3 Removal of a Manager. The Original Manager may be removed only on the occurrence of an event described in 10.2 above. Upon the written consent or affirmative vote of Members owning greater than 50% of the then outstanding Membership interests, any Manager may be removed if, simultaneously with such removal, a successor Manager is elected by the Members owning greater than 50% of the then outstanding Membership interests. Written notice of such determination setting forth the effective date of such removal shall be served upon the Manager, and as of the effective date, shall terminate all of such person's rights and powers as a Manager.

Section 10.4 Withdrawal of a Manager. Upon 30 days notice to the Members, any Manager may withdraw as a Manager at any time, provided that such Manager delivers to the Company an opinion of competent counsel to the effect that such withdrawal will not adversely affect the classification of the Company as a partnership for federal income tax purposes or classification as a Company for purposes of state law.

Section 10.5 Election of New Managers. In the event any person ceases to be a Manager pursuant to Section 10.2, 10.3, or 10.4 and as a consequence thereof the Company has no Manager, any Member may nominate one or more persons for election as Manager(s). No person shall become a Manager unless elected by an affirmative vote of a majority in interest of the Members.

Section 10.6 Amendment to the Articles of Organization of the Company. In the event a Manager is unwilling or unable to sign a required amendment to the Articles of Organization of the Company as evidence of withdrawal, substitution or addition of a Manager, the amended Articles may be signed by:

(a) The remaining Manager(s), if more than one Manager is then serving, and any successor elected by the Members or as otherwise designated by the Operation Agreement; or,

(b) If but one Manager was serving, and who ceases to serve for any reason, by the new Manager or Managers, as substitute or successor, and at least 50% interest of the Members.

Each Manager serving or to serve in the capacity of a Manager does hereby appoint its successor (or if there is more than one Manager serving at the time a Manager shall refuse or be unable to act, the remaining Manager or Managers) as its attorney in fact, to sign the amended certificate on its behalf.

Section 10.7 Termination of Executory Contracts With the Terminated Manager or Affiliates. All executory contracts between the Company and a Manager removed pursuant to 10.2, 10.3 or 10.4 hereof, may be terminated by the Company effective upon sixty (60) days' prior written notice of such termination to the Manager. The removed Manager thereof may also terminate and cancel any such executory contract effective upon sixty (60) days' prior written notice of such termination and cancellation given to the Company.

ARTICLE XI
POWER OF ATTORNEY

Section 11.1 Manager as Attorney-In-Fact. Each Member hereby makes, constitutes and appoints each Manager and each successor Manager, with full power of substitution and re-substitution, his true and lawful attorney-in-fact for him and in his name, place and stead and for his use and benefit, to sign, execute, certify, acknowledge, swear to, file and record:

(a) This Agreement and all agreements, certificates, instruments and other documents amending or changing this Agreement as now or hereafter amended which the Manager may deem necessary or

appropriate as permitted under the Company Operating Agreement to reflect only the following amendments or changes:

(i) the exercise by any Manager of any power granted to it under this Agreement;

(ii) any amendments adopted by the Members in accordance with the terms of this Agreement;

(iii) the admission of any substituted Member or Manager; and

(iv) the disposition by any Member of it interest in the Company; and

(b) Any certificates, instruments and documents as may be required by, or may be appropriate under, the laws of the State of Nevada or any other state or jurisdiction in which the Company is doing or intends to do business.

Each Member authorizes each such attorney-in-fact to take any further action which such attorney-in-fact shall consider necessary or advisable in connection with any of the foregoing.

Section 11.2 Nature as Special Power. The power of attorney granted pursuant to this Article XI:

(a) Is a special power of attorney coupled with an interest;

(b) May be exercised by any such attorney-in-fact by listing the Members executing any agreement, certificate, instrument or other document with the single signature of any such attorney-in-fact acting as attorney-in-fact for such Members; and

(c) Shall survive the death, disability, legal incapacity, bankruptcy, insolvency, dissolution, or cessation of existence of a Member and shall survive the delivery of an assignment by a Member of the whole or a portion of its interest in the Company, except that where the assignment is of such Member's entire interest in the Company and the assignee, with the consent of the Manager, is admitted as a substituted Member, the power of attorney shall survive the delivery of such assignment for the sole purpose of enabling any such attorney-in-fact to effect such substitution.

ARTICLE XII

MISCELLANEOUS

Section 12.1 Amendments. This Agreement may be amended at any time, and from time to time, upon the written approval of the Manager(s) and greater than 75% of the Membership interests.

Section 12.2 Notices. Any written notice to any of the Members required or permitted under this Agreement shall be deemed to have been duly given on the date of service, if served personally on the party to who notice is to be given, or on the second day after mailing, if mailed to the party to whom notice is to be given, by registered or certified mail, postage prepaid and addressed to the party at its last known address. Notices to the Company shall be similarly given, and addressed to it at its principal place of business.

Section 12.3 Governing Law. This Agreement is intended to be performed in the State of Nevada and the laws of that State shall govern its interpretation and effect.

Section 12.4 Successors. This Agreement shall be binding on and inure to the benefit of the respective Member's successors and assigns, except to the extent of any contrary provision in this Agreement.

Section 12.5 Severability. If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the Agreement shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

Section 12.6 Entire Agreement. This Agreement contains the entire agreement of the Members relating to the rights granted and obligations assumed under this Agreement. Any oral representations or modifications concerning this Agreement shall be of no force or effect unless contained in a subsequent written modification signed by the Member to be charged.

Section 12.7 Binding Effect. Except as otherwise provided in this Agreement, every covenant, term and provision of this Agreement shall be binding upon and inure to the benefit of the Members and their respective heirs, legatees, legal representatives, successors, transferees and assigns.

Section 12.8 Construction. Every covenant, term and provision of this Agreement shall be construed simply according to its fair meaning and not strictly for or against any Member.

Section 12.9 Time. Time is of the essence with respect to this Agreement.

Section 12.10 Headings. Section and other headings, contained in this Agreement are for reference purposes only and are not intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

Section 12.11 Incorporation by Reference. Every exhibit, schedule and other appendix attached to this Agreement and referred to herein is hereby incorporated in this Agreement by reference.

Section 12.12 Variation of Pronouns. All pronouns and any variations thereof shall be deemed to refer to masculine, feminine or neuter, singular or plural, as the identity of the Person or Persons may require.

Section 12.13 Waiver of Action for Partition. Each of the Members irrevocably waives any right that they may have to maintain any action for partition with respect to any of the Company Property.

Section 12.14 Counterpart Execution. This Agreement may be executed in any number of counterparts with the same effect as if all of the Members had signed the same document. All counterparts shall be construed together and shall constitute one agreement.

Section 12.15 Further Documents. Each Member agrees to perform any further acts and to execute and deliver any further documents reasonably necessary or proper to carry out the intent of this Agreement.

Section 12.16 Attorneys' Fees. If an action is instituted to enforce the provisions of this Agreement, the prevailing party or parties in such action shall be entitled to recover from the losing party or parties its or their reasonable attorneys' fees and costs as set by the Court.

Section 12.17 Elections Made by the Company. All elections required or permitted to be made by the Company under the Internal Revenue Code shall be made by the Manager(s) in such manner as will in their judgment be most advantageous to a majority in interest of the Members.

ARTICLE XIII
VIDA SPA, LLC

Section 13.1 Creation of the Series. Pursuant to N.R.S 86.296, "_____, LLC", a series of VIDA SPA, LLC, a Nevada Limited Liability Company, is hereby created. The rights, powers and duties of the Members of the _____, LLC are hereby adopted as set forth and enumerated in this Operating Agreement for VIDA SPA, LLC, a Nevada Limited Liability Company as evidenced in the Agreement to Adopt Operating Agreement as set forth on Schedule B and attached hereto as *Exhibit A*, which shall be incorporated herein by this reference. Pursuant to N.R.S 86.296, "_____, LLC", a series of VIDA SPA, LLC, a Nevada Limited Liability Company, is hereby created. The rights, powers and duties of the Members of the _____, LLC are hereby adopted as set forth and enumerated in this Operating Agreement for VIDA SPA, LLC, a Nevada Limited Liability Company as evidenced in the Agreement to Adopt Operating Agreement as set forth on Schedule B and attached hereto as *Exhibit B*, which shall be incorporated herein by this reference. Pursuant to N.R.S 86.296, "_____, LLC", a series of VIDA SPA, LLC, a Nevada Limited Liability Company, is hereby created. The rights, powers and duties of the Members of the _____, LLC are hereby adopted as set forth and enumerated in this Operating Agreement for VIDA SPA, LLC, a Nevada Limited Liability Company as evidenced in the Agreement to Adopt Operating Agreement as set forth on Schedule B and attached hereto as *Exhibit C*, which shall be incorporated herein by this reference.

Section 13.2 Debts, Liabilities, Obligations and Expenses of Series. Pursuant to N.R.S. 86.296(3), the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to: 1) _____, LLC; 2) _____, LLC, and 3) _____, LLC, are enforceable against the assets of each series only, and not against the assets of the series generally or any other series.

Section 13.3 Separation of Assets and Separate Accounting. Separate and distinct records are to be maintained for the series and the assets associated with the series are to be held, directly or indirectly, including through nominee or otherwise, and accounted for separately from the other assets of the series and any other series. Any transfer of assets or use of assets that would violate N.R.S 86.296 or this Section 13.03 shall be treated as a loan or lease between the entities, as the case may be, so that the assets of each entity are always held and accounted for separately.

[THIS SECTION LEFT BLANK INTENTIONALLY]
[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Manager and Member have executed this Operating Agreement of **VIDA SPA, LLC,** on the day above written.

MANAGER:

GISSELLE PLATFOOT

MEMBER:

ART MATRIX, INC., a Nevada corporation

By: VAZRIK MAKARIAN, Officer

GISSELLE PLATFOOT

SCHEDULE "A"

SCHEDULE "B"

MEMBER:	PERCENTAGE INTEREST:	UNITS:
ART MATRIX, INC.	50%	500
GISSELLE PLATFOOT	50%	500

SCHEDULE "C"

INVENTORY OF SERIES

1. _____, LLC (Exhibit A) – September___, 2016
2. _____, LLC (Exhibit B) – September___, 2016
3. _____, LLC (Exhibit C) – September___, 2016

STATE OF NEVADA

STEVE SISOLAK
Governor

RICHARD WHITLEY, MS
Director

LISA SHERYCH
Interim Administrator

IHSAN AZZAM, PH.D., MD
Chief Medical Officer

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH
BUREAU OF HEALTH CARE QUALITY AND COMPLIANCE
727 Fairview Dr., Suite E, Carson City, NV 89701
Telephone: 775-684-1030, Fax: 775-684-1073
dpbh.nv.gov

NOTICE OF NONCRIMINAL JUSTICE APPLICANT'S RIGHTS, CONSENTS AND SELF DISCLOSURE OF CRIMINAL HISTORY

FINGERPRINT BACKGROUND WAIVER - NOTICE OF NONCRIMINAL JUSTICE APPLICANT'S RIGHTS

As an applicant who is the subject of a Federal Bureau of Investigation (FBI) fingerprint-based criminal history record check for a noncriminal justice purpose you have certain rights which are discussed below.

1. You must be notified by (enter name of requesting agency) Division Public and Behavioral Health that your fingerprints will be used to check the criminal history records of the FBI and the State of Nevada.

2. If you have a criminal history record, the officials making a determination of your suitability for the job, license or other benefit for which you are applying must provide you the opportunity to complete or challenge the accuracy of the information in the record. You may review and challenge the accuracy of any and all criminal history records which are returned to the submitting agency. The proper forms and procedures will be furnished to you by the Nevada Department of Public Safety, Records Bureau upon request. If you decide to challenge the accuracy or completeness of your FBI criminal history record, Title
28 of the Code of Federal Regulations, Section 16.34, provides for the proper procedure to do so:

> 16.34 - Procedure to obtain change, correction or updating of identification records. If after reviewing his/her identification record, the subject thereof believes that it is incorrect or incomplete in any respect and wishes changes, corrections or updating of the alleged deficiency, he/she should make application directly to the agency which contributed the questioned information. The subject of a record may also direct his/her challenge as to the accuracy or completeness of any entry on his/her record to the FBI, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306. The FBI will then forward the challenge to the agency which submitted the data requesting that agency to verify or correct the challenged entry. Upon the receipt of an official communication directly from the agency which contributed the original information, the FBI CJIS Division will make any changes necessary in accordance with the information supplied by that agency.

3. Based on 28 CFR § 50.12 (b), officials making such determinations should not deny the license or employment based on information in the record until the applicant has been afforded a reasonable time to correct or complete the record or has declined to do so.

4. You have the right to expect that officials receiving the results of the fingerprint-based criminal history record check will use it only for authorized purposes and will not retain or disseminate it in violation of federal or state statute, regulation or executive order, or rule, procedure or standard established by the National Crime Prevention and Privacy Compact Council.

5. I hereby authorize (enter name of requesting agency) Division Public and Behavioral Health, to submit a set of my fingerprints to the Nevada Department Public Safety, Records Bureau for the purpose of accessing and reviewing State of Nevada and FBI criminal history records that may pertain to me. In giving this authorization, I expressly understand that the records may include information pertaining to notations of arrest, detainments, indictments, information or other charges for which the final court disposition is pending or is unknown to the above referenced agency. For records containing final court disposition information, I understand that the release may include information pertaining to dismissals, acquittals, convictions, sentences, correctional supervision information and information concerning the status of my parole or probation when applicable.

6. I hereby release from liability and promise to hold harmless under any and all causes of legal action, the State of Nevada, its officer(s), agent(s) and/or employee(s) who conducted my criminal history records search and provided information to the submitting agency for any statement(s), omission(s), or infringement(s) upon my current legal rights. I further release and promise to hold harmless and covenant not to sue any persons, firms, institutions or agencies providing such information to the State of Nevada on the basis of their disclosures. I have signed this release voluntarily and of my own free will.

CONSENT TO CHECK OF REGISTRIES

I consent to have a check of registries conducted, including, but not limited to, any government abuse registries, licensing registries, sexual abuse registries, the Office of Inspector General List of Excluded Individuals and Entities registry and any other registries that may be required by the Division of Public and Behavioral Health.

SELF DISCLOSURE STATEMENT OF CRIMINAL HISTORY

I attest that I have never been convicted of any of the following crimes:

- Murder, voluntary manslaughter or mayhem;
- Assault or battery with intent to kill or to commit sexual assault or mayhem;
- Sexual assault, statutory sexual seduction, incest, lewdness or indecent exposure, or any other sexually related crime that is punished as a felony (including felony prostitution);
- A crime involving domestic violence that is punished as a felony;
- Abuse or neglect of a child or contributory delinquency;
- Abuse, neglect, exploitation or isolation of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to NRS 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct;
- A violation of any provision of NRS 422.450 to NRS 422.590, inclusive; or
- Any other felony involving the use or threatened use of force or violence against the victim or the use of a firearm or other deadly weapon.

I attest that I have not been convicted of any of the following crimes within the immediately preceding 7 years:

- Prostitution, solicitation, lewdness or indecent exposure, or any other sexually related crime that is punished as a misdemeanor;

- A crime involving domestic violence that is punished as a misdemeanor;
- A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;
- A violation of any provision of law relating to the State Plan for Medicaid or a law of any other jurisdiction that prohibits the same or similar conduct;
- A criminal offense under the laws governing Medicaid or Medicare;
- Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property; or
- An attempt or conspiracy to commit any of the offenses listed in this Self Disclosure Statement of Criminal History section.

CONSENT TO BE ENROLLED IN A RAP (Record of Arrests and Prosecutions) BACK SYSTEM
(optional – check only if you consent)
☐ I understand that if I check this box, the facility, hospital, agency, program or home I am under employment/contract/service with or the Division of Public and Behavioral Health may enroll me in a RAP (Record of Arrests and Prosecutions) back system which would allow the Central Repository for Nevada Records of Criminal Hist01y to notify my employer and the Division of Public and Behavioral Health of any criminal offenses that I may be convicted of in the future.

AUTHORIZATION OF SUBMISSION OF FINGERPRINTS
I authorize the submission of my fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its background check report.

A reproduction of this authorization for release of information by photocopy, facsimile or similar process, shall for all purposes be as valid as the original.

In consideration for processing my application I, the undersigned, whose name and signature voluntarily appears below; do hereby and irrevocably agree to the above.

I understand that a person who willfully provides a false statement or information connected with a background investigation that would disqualify the person from employment, including without limitation, a conviction of a crime listed in NRS 449.174, is guilty of a misdemeanor.
I declare under penalty of perjury that the foregoing is true and correct.
Executed on:

Applicant's Name: _____
(PLEASE PRINT LAST, FIRST, MIDDLE)

Address: _____

Applicant's Signature:_____ Date:_____

Submitting Agency: Division of Public and Behavioral Health
Address: 727 Fairview Drive, Suite E, Carson City, NV 89701

Agency representative:
Michelle Smothers
(PLEASE PRINT LAST, FIRST, MIDDLE)

Agency representative's Signature: Michelle Smothers Date: _____

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Providers

Training & Education

Certified Community Behavioral Health Centers (CCBHC)

Emergency Medical Systems (EMS)

Environmental Health

Health and Allied Personnel Licensing

Medical Marijuana

Radiation Control Programs

Regulatory Information

Regulatory Partners

Child Care Facilities

Environmental Health Complaints

Training & Education

Brown Bag Training

From time to time, HCQC hosts live "brown bag" training sessions about various important topics. Check back here regularly for new sessions (typically held at both northern and southern Nevada locations).

- None scheduled at this time

Online Courses

The Bureau of Health Care Quality and Compliance (HCQC) is working to make training courses available online through the State of Nevada Online Professional Development Center. Training courses can be accessed by clicking the links below; some of the training courses will require you to have an existing NEATS account or set one up (click here for instructions). Courses provided through other sites might have different access requirements; see those sites for details.

- Available courses
  - Personal Care Agencies Introductory Tutorial
  - New Operator Training for Residential Facilities for Groups (AGC) and Homes for Individual Residential Care (HIRC)
  - Elder Abuse/Adult Protective Services
  - Tuberculosis Testing
  - Nevada Automated Background Check System (NABS) - Fingerprinting and background checks

Infection Control

Nevada health officials and lawmakers take an active role in helping to prevent infections and disease within the state's health facilities. The resources below will help staff learn about the steps they can take to reduce such infections in their facilities.

- Nevada Healthcare Associated Infections Prevention and Control training
- Centers for Disease Control and Prevention

Self-Directed and Other Training

Select from one of these available trainings available in PDF. This information is not mandatory for licensing but provides guidance that can help avoid issues that can lead to sanctions or revocation of your license.

- Federal Health Facility Survey Process Training for Providers (from CMS)
- New Long-Term Care Survey Process
- Hand in Hand: A Training Series for Nursing Homes
  - Self-paced online training
  - Downloadable materials for instructor-led training
- Bed Bugs
- Scabies
- Medication Management
  - Frequently Asked Questions
  - State of Nevada Approved Medication Management Programs/Proctors
- Reacting to Catastrophic Event, What to Expect, How to Respond
- HCQC Bureau of Health Care Quality and Compliance

Last Updated: 10/10/2022

PHILLIPS 000101

Select Language | ▼

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Version 3.1

3225 S Rainbow Blvd. suite 206 Las Vegas, NV 89146

Employee Handbook and Contract

For: MD

Issue Date: 10/01/2020

Version Number: 1002

This is our new Employee Handbook. Please review it, sign the attached acknowledgment, and return to the management no later than 15 business days from the date handed to you.

You may keep a copy of the Handbook if you wish, but a copy will always be available to you through the HR department. If you do not wish to keep a copy, please return the Handbook to HR.

This Employee Handbook (the "Handbook") was developed to describe some of the expectations of our employees and to outline the policies, programs, and benefits available to eligible employees. Employees should familiarize themselves with the contents of the Handbook as soon as possible, for it will answer many questions about employment with VIDA SPA, LLC

GENERAL PRINCIPALS OF PRACTICE

The physician agrees to maintain at all times during the term of this agreement a current valid Medical license, Malpractice, DEA and pharmacy license to practice in the State of Nevada. A copy of each of the above is to be provided to VIDA SPA, LLC.

Confidentiality of Proprietary Information

Except to the extent required to comply with applicable laws or written orders of the Court or government agency, the physician assistant (PA), agrees to hold confidential all proprietary and confidential matters related to the practice and the business operations of VIDA SPA, LLC.

Non-Disclosure

The protection of confidential business information and trade secrets is vital to the interests and the success of VIDA SPA. Such confidential information includes, but is not limited to, the following examples:

- acquisitions
- compensation data
- computer processes
- computer programs and codes
- customer lists
- customer photos including but not limited before and after photos
- customer preferences
- financial information
- investments
- labor relations strategies
- marketing strategies
- new materials research
- partnerships
- pending projects and proposals
- proprietary production processes
- research and development strategies
- scientific data
- scientific formulae
- scientific prototypes
- technological data
- technological prototypes

All employees may be required to sign a non-disclosure agreement as a condition of employment. Employees who improperly use or disclose trade secrets or confidential business information will be subject to disciplinary action, up to and including termination of employment and legal action, even if they do not actually benefit from the disclosed information.

Ownership of Patient Records

The physician assistant (MD), recognizes and agrees that all case histories, personal and regular files/notes concerning patients of VIDA SPA, LLC including, without limitations, patients consulted, interviewed, treated, and cared for by physician assistant (PA) during his/her employment by the VIDA SPA, LLC shall belong to and remain the property of VIDA SPA, LLC. All charts are to be completed by the end of the day. All medical records are the property of VIDA SPA, LLC and are not to be removed from the facility for any reason.

OSHA Policies

Physician will abide by and enforce OSHA policies and procedures as required.

Job Descriptions

VIDA SPA maintains job descriptions to aid in orienting new employees to their jobs, identifying the requirements of each position, establishing hiring criteria, setting standards for employee performance evaluations, and establishing a basis for making reasonable accommodations for individuals with disabilities.

The management and the hiring manager prepare job descriptions when new positions are created. Existing job descriptions are also reviewed and revised in order to ensure that they are up to date. Job descriptions may also be rewritten periodically to reflect any changes in position duties and responsibilities. All employees will be expected to help ensure that their job descriptions are accurate and current, reflecting the work being done.

Employees should remember that job descriptions do not necessarily cover every task or duty that might be assigned, and that additional responsibilities may be assigned as necessary. Contact the management if you have any questions or concerns about your job description.

DOCTOR

- Language used in front of patients and throughout the office must be respectable and appropriate
- No discussion of personal matters is acceptable in front of patients
- No discussion of procedure fees with patients
- No discussion of pay rate among each other. Pay rates are not same for everyone.
- Answering personal phone calls is NOT permitted during procedures
- All providers and supporting staff must arrive to the office 10-15 minutes before the scheduled procedure time.
- Dress appropriately and professionally
- After three (3) write ups, all employees are subject to penalization up to termination.
- No one is authorized to take any products/supply from the office.

Items that must go through Gisselle or whoever she may assign in her place:

- Placing orders for products
- Gisselle or a designated manager are the ONLY one(s) who can give pricing, discounts, free goods to the patients.
- 50 % discount in all the procedures excluding (Botox, fillers)

Compensation

- Dr. Maryanne Phillips compensated at the rate of 20 % per procedure, after the following expenses are taking out including product, financial company fee such us care credit, HCS
- Post-surgery massages are not part of the compensation of the doctor.
- 15% Botox, fillers, PRP

Payroll

- Paid will bi-weekly or every other week.

Work Schedules

Work schedules for employees vary throughout our organization. Supervisors will advise employees of their individual work schedules. Staffing needs and operational demands may

necessitate variations in starting and ending times, as well as variations in the total hours that may be scheduled each day and week.

Vacation/ Day off

Vacation or day off time without pay will only be approved if provided in writing at least two weeks prior to your vacation "Staff day off request form" is available to use.

Attendance and Punctuality

To maintain a safe and productive work environment, VIDA SPA expects employees to be reliable and to be punctual in reporting for scheduled work. Absenteeism and tardiness place a burden on other employees and on VIDA SPA. In the rare instances when employees cannot avoid being late to work or are unable to work as scheduled, they should notify their supervisor as soon as possible in advance of the anticipated tardiness or absence.

Poor attendance and excessive tardiness are disruptive. Either may lead to disciplinary action, up to and including termination of employment.

Employee Conduct and Work Rules

To ensure orderly operations and provide the best possible work environment, VIDA SPA expects employees to follow rules of conduct that will protect the interests and safety of all employees and the organization.

It is not possible to list all the forms of behavior that are considered unacceptable in the workplace. The following are examples of infractions of rules of conduct that may result in disciplinary action, up to and including termination of employment:

- Theft or inappropriate removal or possession of property and supply
- Unauthorized disclosure of business "secrets" or confidential information
- Using before and after photos, documents and data of VIDA SPA customers posting on social media for personal and business gain.
- No FREE services/ procedures are allowed to be performed on each other, family members and friends without prior authorization from Gisselle, the owner.
- ALL products necessary to use for patients MUST be obtained and signed off by Gisselle or any person she assigned to act on her place.
- of timekeeping records
- Sharing password to clock in and out for each other.
- Working under the influence of alcohol or illegal drugs

- Possession, distribution, sale, transfer, or use of alcohol or illegal drugs in the workplace, while on duty or while operating employer-owned vehicles or equipment
- Fighting or threatening violence in the workplace
- Disruptive activity in the workplace
- Negligence or improper conduct leading to damage of employer-owned or customer-owned property
- Insubordination or other disrespectful conduct
- Violation of safety or health rules
- Smoking in the workplace
- Sexual or other unlawful or unwelcome harassment
- Possession of dangerous or unauthorized materials, such as explosives or firearms, in the workplace
- Excessive absenteeism or any absence without notice
- Violation of personnel policies
- Unsatisfactory performance or conduct

Nothing is this policy is intended to change the VIDA SPA's at-will employment policy. Employment with VIDA SPA is at the mutual consent of VIDA SPA and the employee, and either party may terminate that relationship at any time, with or without cause, and with or without advance notice.

Personal Appearance

Dress, grooming, and personal cleanliness, hygiene standards contribute to the morale of all employees and affect the business image that VIDA SPA presents to the community.

During business hours or when representing VIDA SPA, you are expected to present a clean, neat, and tasteful appearance. You should dress and groom yourself according to the requirements of your position and accepted social standards.

Your supervisor or department head is responsible for establishing a reasonable dress code appropriate to the job you perform. If your supervisor feels that your personal appearance is inappropriate, you may be asked to leave the workplace until you are properly dressed or groomed. Under such circumstances, you will not be compensated for the time away from work.

I hereby submit my signature below to confirm that I have read the above in its entirety and agree to follow the rules as stated.

Name_____ Signature _____ Date_____

Telephone: (702) 357-4406 NPI_____
Fax: (702) 357-4415
Pharmacy Line: (702) 860-8965

BioNutraceutical Health Solutions

Maryanne Phillips, MD
Medical Director
2121 E Flamingo Rd #112 Las Vegas, NV 89191

Name: _____

Address: _____ Date: _____

☐ Label
Refill - 0 -1 -2 -3 - 4 PRN

_____M.D.

Telephone: (702) 357-4406 NPI_____
Fax: (702) 357-4415
Pharmacy Line: (702) 860-8965

BioNutraceutical Health Solutions

Maryanne Phillips, MD
Medical Director
2121 E Flamingo Rd #112 Las Vegas, NV 89191

Name: _____

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☐ Label
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Medical Director
2121 E Flamingo Rd #112 Las Vegas, NV 89191

Name: _____

Address: _____ Date: _____

☐ Label
Refill - 0 -1 -2 -3 - 4 PRN

_____M.D.

VIKORSCIENTIFIC

Respira-ID™ Molecular Test Requisition

CLIA# 42D2150400 • CAP #8359749
22 WestEdge St • 8th Floor • Charleston, SC 29403
P 854.429.1069 F 833.247.4091

Patient Name _____ DOB ____/____/____ Collection Date ____/____/____

TEST SELECTION CHECK APPLICABLE BOXES **Sample Type / location** _____

Allergies: _____ Renal: ☐NML ☐ABNL Hepatic: ☐NML ☐ABNL

Provider Notes: _____

☐ Respira-ID™

Viruses

- ☐ Adenovirus 1 & 2 Alpha
- ☐ Adenovirus 1 & 2 Beta
- ☐ Coronavirus HKU1
- ☐ Coronavirus NL63
- ☐ Coronavirus OC43
- ☐ Coronavirus SARS-CoV-2
- ☐ Cytomegalovirus (HHV5)
- ☐ Enterovirus (A/B/C)
- ☐ Epstein-Barr virus (HHV4)
- ☐ Human Bocavirus (HBoV)
- ☐ Human Herpesvirus (HHV6)
- ☐ Human Metapneumovirus
- ☐ Influenza A virus (Pan)
- ☐ Influenza B virus (Pan)
- ☐ Parainfluenza 1
- ☐ Parainfluenza 2
- ☐ Parainfluenza 3
- ☐ Parainfluenza 4
- ☐ Respiratory Syncytial Virus A & B
- ☐ Varicella zoster virus (HHV3)

Bacteria

- ☐ Bordetella (PAN)
- ☐ Bordetella pertussis
- ☐ Chlamydophila pneumoniae
- ☐ Coxiella burnetii
- ☐ Haemophilus influenzae
- ☐ Klebsiella pneumoniae
- ☐ Legionella pneumophila
- ☐ Moraxella catarrhalis
- ☐ Mycobacterium avium complex (MAC)
- ☐ Mycoplasma pneumonia
- ☐ Pseudomonas aeruginosa
- ☐ Staphylococcus aureus
- ☐ Streptococcus agalactiae (group B)
- ☐ Streptococcus pneumoniae
- ☐ Streptococcus pyogens

Fungi

- ☐ Aspergillus fumigatus

Antibiotic Resistance Genes These are automatically tested in reflex to a positive pathogen.

Ampicillin Resistance
ampC
ACC
ACT/MIR
DHA

Extended-Spectrum-Betalactamase Resistance
blaNDM-1
GES
CTX-M Group 1
CTX-M Group 2
CTX-M Group 8/25
CTX-M Group 9
PER-1
PER-2
SHV
TEM
TEM E102K
TEM R162S
TEM G238S
VEB

Methicillin Resistance
mecA (MRSA)

Sulfonamide Resistance
SULI

Trimethoprim Resistance
DFRA

Carbapenem Resistance
blaOXA-48
IMP-7
IMP-10
KPC
NDM
OXA-1
OXA-23
OXA-40
OXA-48
OXA-72
OXA-58
VIM

Macrolide Resistance
ermA
ermB
ermC

Aminoglycoside Resistance
aac6-Ib/aacA4
aac6-Ib-cr
ant(3)
aph(A6)

Tetracycline Resistance
tetM

Quinolone Resistance
Gyrase A D87N_GTT
Gyrase A 583L_TGG
QnrA
QnrB

Polymyxin Resistance
mcr-1

Vancomycin Resistance
VanA1
VanA2
VanB

Medical Necessity MUST BE COMPLETED - ICDS Listed for Convenience Only - Please document applicable ICD-10 Codes.

( ) R50.9 Fever, unspecified
( ) R68.83 Chills (without fever)
( ) R.06.02 Shortness of breath
( ) R06.00 Dyspnea, unspecified
( ) J01.90 Acute sinusitus, unspecified
( ) J32.9 Unspecified sinusitus, chronic
( ) J00 Acute sasopharyngitis
( ) J31.0 Unspecified rhinitis
( ) J03.90 Acute tonsillitis
( ) J02.9 Acute pharyngitis
( ) R09.3 Abnormal sputum
( ) R07.81 Pleurodynia
( ) R07.82 Intercostal chest pain
( ) R06.9 Abnl of breathing, unspec
( ) R05.00 Cough
( ) R53.82 Chronic fatigue, unspec
( ) J06.9 Acute upper respiratory infections of unspecified site
( ) _____
( ) _____

Medical Provider Consent

This test is medically necessary for the risk assessment, diagnosis or detection of a disease, illness, impairment, symptom, syndrome or disorder. The results will determine my patient's medical management and treatment decisions. By my signature below, I indicate that I am the referring physician or authorized health care provider. I have explained the purpose of the test. The patient has been given the opportunity to ask questions and/or seek further counsel. The patient has voluntarily decided to have the test performed by Vikor Scientific. As the medical provider, I am responsible for documenting applicable ICD-10 diagnosis codes.

Medical Provider Signature _____ Date _____

SURGICAL PROCEDURE RECORD

Date: ____/____/_____ Time: _____

Patient Name (Last, First):_____ DOB:____/____/_____

Height_____ Weight: _____lb_____Kg Pregnancy Test results : (N) (P)

Covid 19 test results :_____Temp:_____Phone Number: _____

Emergency Contact (Name and phone number)_____

Pharmacy Name and Phone Number: _____

Allergies:	**Current Medication:**

Medications

Time	Medication	Dose	Route	Quantity	Ordered By	Initials

Vital Signs

TIME	O2 Sats	BP	HR	RR

DRESSINGS:_____

_____

_____

PROCEDURE:_____

EBL	FAT

NOTES:_____

_____

_____

_____

_____

_____

_____

_____

_____

MD/PA:_____Anesthesiologist:_____

Registered Nurse:_____MA _____

VIDA SPA

Patient Name_____ DOB_____ Date_____ Height_____
Weight_____ Pregnancy Test results_____ Allergies_____ Phone #_____

MEDICATIONS

Time	Medication	Dose	Route	Quantity	Ordered By	Initials

TIME	O2 Sats	BP	HR	RR

Tumescent time	Start	End	
Vaser Time	Start	End	
Liposuction Time	Start	End	
Areas of Liposuction	Tumescence	Aspiration	Fat

INCISION TIME_____ **END TIME**_____

DRESSINGS_____

PROCEDURE_____

_____

MD/PA_____ **Anesthesiologist**_____

Registered Nurse_____

NOTES_____

_____

_____

3225 S Rainbow Blvd, suite 107

Las Vegas, NV 89146

This Agreement is between VIDA SPA LLC, and Salvador Borromeo, MD

Entered into on this 29 day of May, 2020.

Whereas, Medical Doctor, is a physician who is eligible to be duly licensed under the Laws of state of Nevada. Desires to employ Medical Doctor and physician desires to accept such employment subject to the terms and conditions hereinafter set forth. Now, therefore, in consideration of the mutual covenants and agreements hereinafter Contained, the parties hereby agree as follows:

GENERAL PRINCIPALS OF PRACTICE AND DUTIES:

- Dr. Salvador Borromero is to supervise as the medical director for the physician assistants (PAs) and other licensee. Physician agrees to maintain at all times during the term of this agreement a current valid Medical license, Malpractice, DEA and pharmacy license to practice medicine in the State of Nevada.

- At least once a month, the supervising physician shall spend part of a day at any location where the physician assistants and all other licensee provides medical services to act as a consultant to the physician assistant and to monitor the quality of care provided by the physician assistant.
- A physician who supervises a physician assistant shall develop and carry out a program to ensure the quality of care provided by physician assistants. The program must include, without limitation:

a. An assessment of the medical competency of the physician assistants;
b. A review and initialing of selected charts;

3:18 P

Items that must go through Gisselle or whoever she may assign in her place:

- Placing orders for products
- Gisselle or designated person by her is the **ONLY** one who can give pricing, discounts, free goods to the patients.
- Gisselle or whomever she may assign are the **ONLY** ones who can dispense products that are locked in the cabinets.

Compensation and terms of agreement

- Dr. Salvador Borromero as Vida Spa, LLC medical director will be compensated at the rate of $3,000 per month for the first two (2) months as directorship fee.
- Beginning on the third (3) months, the rate will increase to $3,500.
- This will be a one year agreement. A minimum of 30 day notice is required by either party prior to termination. Except, any verified Nevada State board or malpractice violation committed by the licensee in which case termination will be immediate.

Payroll

- Payroll will process the paycheck once per month on the fourth Thursday of each month.

I hereby submit my signature below to confirm that I have read the above in its entirety and agree to follow the rules as stated.

Name Salvador Borromeo Signature Borromeo Date_____

Salvador Garcia BORROMEO III

License Number:	8770
License Type:	Medical Doctor
License Status:	Active
Initial License Date:	Aug-24-1998
Expiration Date:	Jun-30-2023
Public Address:	801 S. Rancho Drive Unit A-2 Ste A2
Public City:	Las Vegas
Public State:	Nevada
Public ZIP Code:	89106-3870
Public Country:	United States
Public Phone Number:	(702) 824-2307
Credential:	M.D.

Specialties

Specialty
Internal Medicine
Cardiovascular Diseases

Education History

Institution	Degree/Certificate	Date Enrolled	Date To
University of Santo Tomas / Manila, Philippines	Medical Doctor Degree	N/A	Mar-28-1984

Postgraduate Training

Institution	Program Type	Specialty Type	Start Date	End Date
Michigan State University / Ann Arbor, MI	Residency	Peds, Intensivist	Jun-01-1990	May-31-1994
Michigan State University / Ann Arbor, MI	Fellowship	Cardiovasc Diseases	Jul-01-1995	Jun-30-1998

Board Actions

Summary

MOJAVE HEART AND VASCULAR GROUP

SALVADOR G. BORROMEO, M.D.

DEA # BB3661279 LIC. # 8770 NPI # 1669461919

4200-A W. CHARLESTON BLVD.

LAS VEGAS, NV 89102

(702) 824-2307 TEL. (800) 579-9591 FAX

NAME _____ DOB _____

ADDRESS _____ DATE _____

TAMPER-RESISTANT SECURITY FEATURES LISTED ON BACK OF SCRIPT

℞

ILLEGAL

NAC 630.370 Supervising physician: Duties; qualifications. (NRS 630.130, 630.275)

1. The supervising physician is responsible for all the medical activities of his physician assistant. The supervising physician shall ensure that:

(a) The physician assistant is clearly identified to the patients as a physician assistant;

(b) The physician assistant performs only those medical services which have been approved by his supervising physician;

(c) The physician assistant does not represent himself in any manner which would tend to mislead the general public, the patients of the supervising physician or any other health professional; and

(d) There is strict compliance with:

(1) The provisions of the certificate of registration issued to his physician assistant by the State Board of Pharmacy pursuant to NRS 639.1373; and

(2) The regulations of the State Board of Pharmacy regarding controlled substances, poisons, dangerous drugs or devices.

2. Except as otherwise required in subsection 3 or 4, the supervising physician shall review and initial selected charts of the patients of the physician assistant. He shall be available at all times that his physician assistant is providing medical services to consult with his assistant. Those consultations may be indirect, including, without limitation, by telephone.

3. At least once a month, the supervising physician shall spend part of a day at any location where the physician assistant provides medical services to act as a consultant to the physician assistant and to monitor the quality of care provided by the physician assistant.

4. If the supervising physician is unable to supervise the physician assistant as required by this section, he shall designate a qualified substitute physician, who practices medicine in the same specialty as the supervising physician, to supervise the assistant.

5. A physician who supervises a physician assistant shall develop and carry out a program to ensure the quality of care provided by a physician assistant. The program must include, without limitation:

(a) An assessment of the medical competency of the physician assistant;

(b) A review and initialing of selected charts;

(c) An assessment of a representative sample of the referrals or consultations made by the physician assistant with other health professionals as required by the condition of the patient;

(d) Direct observation of the ability of the physician assistant to take a medical history from and perform an examination of patients representative of those cared for by the physician assistant; and

(e) Maintenance by the supervising physician of accurate records and documentation regarding the program for each physician assistant supervised.

6. Except as otherwise provided in subsection 7, a physician may supervise a physician assistant if the physician:

(a) Holds an active license in good standing to practice medicine issued by the Board;

(b) Actually practices medicine in this State; and

(c) Has not been specifically prohibited by the Board from acting as a supervising physician.

7. If the Board pursuant to NAC 630.410 has disciplined a physician assistant, a physician shall not supervise that physician assistant unless the physician has been specifically approved by the Board to act as the supervising physician of that physician assistant.

[Bd. of Medical Exam'rs, § 630.370, eff. 12-20-79]—(NAC A 6-23-86; 11-21-88; 9-12-91; 1-13-94; R149-97, 3-30-98; R108-01, 11-29-2001; R145-03, 12-16-2003)

NAC 630.360 Performance of authorized medical services; identification; misrepresentation; notification of change regarding supervising physician. (NRS 630.130, 630.275)

1. The medical services which a physician assistant is authorized to perform must be:

(a) Commensurate with his education, training, experience and level of competence; and

(b) Within the scope of the practice of his supervising physician.

SCOPE

2. The physician assistant shall wear at all times while on duty a placard, plate or insigne which identifies him as a physician assistant.

3. No physician assistant may represent himself in any manner which would tend to mislead the general public or the patients of the supervising physician.

4. A physician assistant shall notify the Board in writing within 72 hours after any change relating to his supervising physician.

[Bd. of Medical Exam'rs, § 630.360, eff. 12-20-79]—(NAC A 6-23-86; 9-12-91; 1-13-94; R149-97, 3-30-98; R108-01, 11-29-2001)

MEDICAL DIRECTOR AGREEMENT

This agreement dated January 23, 2020, between VIDA SPA LLC (business) with principal address 3225 S Rainbow. Blvd Suite 107 and Charmaine Porcii (Nurse practitioner) with principal address of 7285 Twin Maples Ct. Las Vegas, NV 89148 sets for that Nurse practitioner Independent contractor utilizing the facilities of business for the purpose of providing Medical Director services and medical spa care services.

TERMS

Business will collect 100% percent of fees collected for services rendered to patients to cover space rent, provision utilities, equipment use, staff (scheduling) and other overhead.

Business will set fees for services rendered. Nurse Practitioner will be the legally licensed medical director of record Business.

Nurse Practitioner will be compensated a $2500 salary until further notice is provided and agreed to in writing by both Business and Nurse practitioner.

Additional Compensation :

1. Nurse Practitioner may treat Business patients for BOTOX and be compensated for 30% of proceeds generated thereof.
2. Nurse Practitioner shall be compensated for 30 % of proceeds for fat transfer and liposuction procedures.
3. Nurse Practitioner shall be compensated for 30 % of proceeds of all other treatments that Nurse practitioner himself administers.

This agreement is in effect from the day of signing of this Agreement. Nurse Practitioner shall receive salary on the 1st day of March 2020 and shall be paid on the 1st day of each month thereafter until further notice is given in writing and agreed to by both Nurse Practitioner and Business. Either party may immediately terminate the agreement, given reasonable cause, as outlined below.

- A breach of ethical standards:
- Violation of the terms of this agreement: or
- Exposure by either party to liability because the other party has failed to abide by the requirements of this agreement. In addition, either party shall have the right to cancel the agreement by providing written notice to the other party at least thirty days prior to a proposed termination date.

Nurse Practitioner Will:

1. Provide proof of professional liability insurance in amounts of at least $2 million per incident and $3 million aggregate and compliance with all business licensing and regulatory requirements.
2. Be responsible for all local, state, and federal withholding taxes.
3. Maintain confidentiality of all client information.
4. Hold business harmless from any liability or economic loss arising from services provided under this agreement.

Business Will:

1. Provide use of the facility (including a safe, private treatment area), its utilities and its services, including treatment space, storage area, bathrooms, general cleaning service, receptionist, scheduling, and appointment confirmation.

2. Incorporate Nurse Practitioner's services within overall business marketing plans and promote those services.

The parties agree that any unresolved disputes about the terms or enforcement of this agreement shall be resolved through mediation. The non-prevailing party shall be responsible for paying all mediation costs, unless the mediatior finds partially for both parties, in which all the parties shall each be responsible for half the costs of mediation.

This constitutes the entire agreement between the parties and replaces any and all prior verbal or written agreements. Should any part of this agreement be considered unenforceable by a court of competent jurisdiction, the remainder of the agreement remains in force. This agreement is governed by the laws of the State of Nevada.

Nurse Practitioner Name Charmaine Porcii

Signature _____ Date 2/3/20

Business Owner name Gisselle Platfoot

Signature _____ Date 2/3/20

Witness Name _____

Signature _____ Date _____

Medical Director Agreement

This agreement dated May 9, 2019, between Vida Spa LLC (Business) with principal address of 3225 S. Rainbow Blvd. Suite 107 and Sherman Washington Jr. (Doctor) with principal address of 2900 North Green Valley Parkway #114, Henderson, NV 89104, sets forth that Doctor is an independent contractor utilizing the facilities of Business for the purpose of providing Medical Director services and medical spa care services.

Terms

Business will collect 100% percent of fees collected for services rendered to patients to cover space rent, provision of utilities, equipment use, staff (scheduling), and other overhead.

Business will set fees for services rendered. Doctor will be the legally licensed medical director of record for Business.

Doctor will be compensated a $2,500 salary for the first two months of this agreement and shall be compensated $3,000 salary starting on the third month of this Agreement until further notice is provided and agreed to in writing by both Business and Doctor.

Additional Compensation:

1. Doctor may treat Business patients for BOTOX and be compensated for 30% of proceeds generated thereof.
2. Doctor shall be compensated for 40% of proceeds for fat transfer and liposuction procedures.
3. Doctor shall be compensated for 30% of proceeds of all other treatments that Doctor himself administers.

This agreement is in effect from the day of signing of this Agreement. Doctor shall receive salary on the 20th day of May 2019 and shall be paid on the 20th day of each month thereafter until further notice is given in writing and agreed to by both Doctor and Business. Either party may immediately terminate the agreement, given reasonable cause, as outlined below:

- A breach of ethical standards;
- Violations of the terms of this agreement; or
- Exposure by either party to liability because the other party has failed to abide by the requirements of this agreement. In addition, either party shall have the right to cancel the agreement by providing written notice to the other party at least thirty days prior to a proposed termination date.

Doctor Will:

1. Provide proof of professional liability insurance in amounts of at least $2 million per incident and $3 million aggregate and compliance with all business licensing and regulatory requirements.
2. Be responsible for all local, state, and federal withholding taxes.
3. Maintain confidentiality of all client information.
4. Hold business harmless from any liability or economic loss arising from services provided under this agreement.

Business Will:

1. Provide use of the facility (including a safe, private treatment area), its utilities and its services, including treatment space, storage area, bathrooms, general cleaning service, receptionist, scheduling, and appointment confirmation.

2. Incorporate Doctor's services within overall business marketing plans and promote those services.

The parties agree that any unresolved disputes about the terms or enforcement of this agreement shall be resolved through mediation. The non-prevailing party shall be responsible for paying all mediation costs, unless the mediatior finds partially for both parties, in which all the parties shall each be responsible for half the costs of mediation.

This constitutes the entire agreement between the parties and replaces any and all prior verbal or written agreements. Should any part of this agreement be considered unenforceable by a court of competent jurisdiction, the remainder of the agreement remains in force. This agreement is governed by the laws of the State of Nevada.

Doctor Name Sherman Washington Jr

Signature _____ Date 9/9/19

Business Owner name Vazrik Makarian

Signature _____ Date 9/9/19

Witness Name Alexander McTarian, Esq

Signature _____ Date 9-9-19

Amendment to Medical Director Agreement

This Amendment to the Medical Director Agreement dated May 9, 2019, between Vida Spa LLC (Business) with principal address of 3225 S. Rainbow Blvd. Suite 107 and Sherman Washington Jr. (Doctor) with principal address of 2900 North Green Valley Parkway #114, Henderson, NV 89104, sets forth that Doctor is an independent contractor utilizing the facilities of Business for the purpose of providing Medical Director services and medical spa care services and will have the Agreement amended as follow:

Terms

Business will collect 100% percent of fees collected for services rendered to patients to cover space rent, provision of utilities, equipment use, staff (scheduling), and other overhead.

Business will set fees for services rendered. Doctor will be the legally licensed medical director of record for Business.

Doctor will be compensated a minimum $10,000 monthly salary, exclusive of the monthly director services fee or 40% of the fat transfer and liposuction procedures, whichever is greater, so long as Doctor conducts a minimum of 5 in-office liposuction or fat transfer procedures per month, otherwise, the original Agreement terms and conditions dated May 9, 2019 shall control.

The procedures shall only be performed at the above written address for Business. This Agreement shall remain in effect until further notice is provided and agreed to in writing by both Business and Doctor. Doctor shall provide a Vaser Lipo suction machine with fat transfer ability to be used at Business location(s) only. Doctor shall be responsible for the maintenance and upkeep of the machine and the machine shall be provided by the Doctor at his sole expense. Business shall compensate Doctor $150 (One Hundred Fifty Dollars) usage fee for every procedure that Business uses on client services whether by Doctor or certified personnel. The Vaser Lipo suction machine will be the machine that is detailed below in a snap-shot picture containing the serial # SN-PFM07-0817R1.

MEDICAL DIRECTOR AGREEMENT

For VIDA SPA, LLC.

MADE THIS 10th DAY OF OCTOBER 2018

EFFECTIVE DATE: OCTOBER 10, 2018

BY AND BETWEEN

VIDA SPA, LLC, of Clark County, Nevada, a Nevada Limited Liability Company (hereinafter referred to as the "Company").

AND

KIARASH MIRKIA, M.D. (hereinafter referred to as the "Medical Director").

WITNESSETH:

WHEREAS, the Company is organized for the purpose of operating, developing and managing a Medical Spa Center (the "Center"), as hereinafter defined, specializing in the treatment of Personal Aesthetic and Cosmetic procedures. The term "Center" shall mean the Vida Spa Medical Spa center located at 3225 South Rainbow Blvd, Suite 107, Las Vegas, NV 89146.

WHEREAS, the Medical Director is a physician Board certified in General Surgery and specializing in Critical and General Care and capable and desirous of providing medical direction of the Center; and

WHEREAS, the Company desires to have the Center under the medical direction of a medical director, who will perform services provided for in this Agreement; and

WHEREAS, the Company has selected the Medical Director to perform medical direction services at its Center as an independent contractor; and

WHEREAS, the Medical Director agrees to perform medical direction services at the Company's Centers under the terms of this Agreement

NOW, THEREFORE, in consideration of the mutual covenants herein contained and intending be legally bound hereby, the parties hereto agree as follows:

1. APPOINTMENT

The Company has approved the appointment of Kiarash Mirkia, M.D. as Medical Director for Vida Spa, LLC.

2. DUTIES OF MEDICAL DIRECTOR

The Medical Director shall serve as an independent contractor to the Company and shall oversee and supervise the clinical aspects of the Company and shall ensure compliance of the Center with the clinical doctrines of the Company. Additionally, the Medical Director shall perform all the administrative, supervisory and educational functions relative to the clinical components of the Company as required from time to time by the Company's Chief Executive Officer and Chief Operating Officer, including but not limited to the functions set forth on Exhibit A attached hereto and incorporated herein, all subject to the oversight and direction of the Board of the Company. The Medical Director shall not refer patients to the Center.

3. DUTIES OF COMPANY

The Company shall provide at its cost or expense all of the supplies, equipment and non-physician personnel required for the provision of services in the Center. The non-physician personnel will be recruited by and be subject to the personnel policies of the Company. The Company shall provide the necessary equipment and maintenance and facility services.

4. RELATIONSHIP OF THE PARTIES

The parties to this Agreement intend that the relationship between them be that of company and independent contractor. None of the benefits provided by the Company to its employees are available to the Medical Director. Medical Director agrees to be solely and entirely responsible for his acts and for the acts of his employees and agents, and for paying all applicable taxes required by law, such as payroll, income, withholding and social security taxes, and all applicable insurance required by law, such as workers compensation and unemployment insurance and the Medical Director will indemnify and hold the Company harmless from any and all loss or liability arising from his failure to make such payments, withholdings and benefits, if any. In the event the Internal Revenue Service or any other governmental agency should question or challenge the independent contractor status of the Medical Director, the Medical Director agrees to notify the Company immediately and cooperate and participate, if requested, in any discussion or negotiation occurring with such agency, regardless of with whom or by whom such discussions or negotiations are initiated. Medical Director shall ensure that all

of its employees, agents and independent contractors rendering services hereunder meet the obligations specified herein. The Medical Director, his employees and agents shall, at all times, exercise complete discretion and independent professional judgment in the performance of the professional services rendered hereunder. Upon the execution of this Agreement by the Center and the Medical Director, all previous Agreements between the parties regarding the subject matter hereof, if any, whether oral or written, shall be terminated.

5. COMPENSATION

(a) During the term of this Agreement, the Company shall pay the Medical Director, as the full amount due for all services provided pursuant to this Agreement; **Five Thousand Dollars ($5,000.00) per month, plus Fifty Percent (50%) of the gross revenue for each appropriately documented and completed procedure, where services are provided hereunder**. Medical Director specifically agrees and covenants that the compensation received by him under this Agreement shall satisfy and discharge in full all Medical Director's claims on the Company for compensation.

(b) If at any time, State or Federal law, rules or regulations make compensation unlawful, the Medical Director and Company shall meet, as soon as practical, to discuss an amendment to this Agreement regarding compensation or billing. In the event the parties are unable to agree to such modification within ten (10) days, either party may immediately terminate this Agreement.

(c) It is understood and agreed that the Company may withhold all or any part of the compensation owed to the Medical Director if the Medical Director fails to complete or document his duties pursuant to this Agreement.

6. INSURANCE OR PROFESSIONAL LIABILITY COVERAGE

Medical Director agrees to obtain and maintain, at his sole expense, during the term of this Agreement, professional liability insurance coverage for himself with minimum limits of coverage of Two Hundred and Fifty Thousand Dollars ($250,000) per claim and Seven Hundred and Fifty Thousand Dollars ($750,000) in the annual aggregate. The Medical Director shall provide Company copies of the current and valid certificates of professional liability insurance applicable to him at any time upon Company's request. The Medical Director further agrees to provide the Company with a copy of malpractice insurance certificate within thirty (30) days of the annual renewal of his insurance policy. In the event the policy of liability insurance applicable to him is written in a claims-made form, Medical Director agrees to maintain such insurance with the same liability carrier in the same amounts maintained hereunder for a period of four (4) years following the termination of this Agreement for any reason. Alternatively, Medical Director shall immediately purchase "tail coverage" in the amount of insurance required hereunder for a period of four (4) years following the expiration or termination of this Agreement for any reason. Medical Director agrees that Company, in its sole discretion, may withhold compensation payable hereunder to purchase such tail coverage on Medical Director's behalf.

7. ABSENCES

During the Medical Director's absence due to vacation, illness, professional education or ot absences, which prevents him from fulfilling his duties pursuant to this Agreement, the Medical Dire shall notify the Company chief executive officer of his absence.

8. CONTINUING PROFESSIONAL EDUCATION

The Medical Director shall attend continuing education programs so as to remain current with the advances in his field of expertise as it relates to services provided in the Center. The continuing education programs will be attended at the Medical Director's expense.

9. COMPLIANCE WITH PROFESSIONAL STANDARDS

The Medical Directory shall remain current with the advances in his field of expertise as it relates to services provided in the Center. The continuing education programs will be attended at the Medical Director's expense. The Medical Director agrees to perform all professional services hereunder in strict accordance with the prevailing standard of care in the relevant community.

10. CONFIDENTIALITY

The Medical Director shall notify the Company of any suspension of his license or certification involving him by the Nevada State Board of Medical Examiners, the Department of Health, Medicare, Medicaid or any professional organization of which the Medical Director is a member. Medical Director shall comply with, all federal, state, county and municipal laws, rules, ordinances and regulations applicable to the practice of medicine. The Medical Director shall not disclose information relating to any and all Company's operations, policies or procedures without the consent of the Company.

11. OBLIGATIONS OF MEDICAL DIRECTOR

The Medical Director shall meet his obligation to provide services under the (a) Meeting and continuing to meet the criteria established by the Company; (b) Complying with the rules and regulations, policies and directives of the (c) Complying with all applicable statutes, rules, regulations and standards of terms of this Agreement by: Company; any and all governmental authorities and regulatory and accreditation bodies relating to physicians, medical directors and hospitals, applicable to the provision of the Vida Spa center services; and 5 (d) Maintain his Medicare provider status during the term of this Agreement.

12. TERM

This Agreement shall be in force for an initial period of twelve (12) months. Thereafter, this Agreement shall automatically renew for successive periods of twelve (12) months, unless, without affecting the parties' ability to terminate this Agreement pursuant to any provision of this Agreement, either party provides the other party written notice of non-renewal at least thirty (30) days prior to the end of the then current twelve (12) month period.

13. TERMINATION

This Agreement may be terminated by agreement of the parties or by operation of law or as provided for elsewhere herein below, as follows:

A. Termination or Cause. This Agreement may be terminated immediately by the s used herein, "good and sufficient cause" shall mean Medical Director's: (i) being for "good and sufficient cause" as that phrase is defined below. A charged with commission of a felony; (ii) loss or suspension of his license to practice medicine in the State of Nevada ; (iii) failure, inability or refusal to perform as required of him under this Agreement or to comply with the material terms and conditions of this Agreement, for any reason other than his illness or physical or mental incapacity; (iv) in the event the Medical Director acts in such a manner involving self-dealing or which creates a conflict of interest or places him in a posture adverse to the best interests of the Company; (v) the Medical Director's permit or license to dispense or prescribe drugs or controlled substances in Nevada shall have been revoked, suspended or restricted; (vi) the Medical Director's right to participate in the Medicare and Medicaid programs shall have been revoked, suspended or restricted; (vii) the unlawful harassment by Medical Director, including sexual harassment, of any employee, agent or independent contractor of the Company; (viii) if the Medical Director breaches any provision of this Agreement and such breach is not cured within ten (10) days of the Company providing Medical Director written notice specifying the breach.

B. Termination Due To Disability. This Agreement may be terminated by the Company in the event Medical Director is unable for a continuous period of thirty (30) days or more to perform the services required of him by this Agreement by reason of his physical or mental disability, although during such thirty (30) day period Medical Director shall be compensated as provided in this Agreement.

C. Termination Due to Death. This Agreement shall be deemed to be terminated upon Medical Director's death.

D. Termination on Company's Bankruptcy. This Agreement may be automatically terminated, at Medical Director's option, upon notice to the Company if the Company shall apply for or consent to the appointment of a receiver, trustee or liquidator of all or a substantial part of its assets, file a voluntary petition in bankruptcy, admit in writing its inability to pay its debts as they become due, make a general assignment for the benefit of creditors, or take advantage of any insolvency law, or if an order, judgment or decree shall be entered by a court of competent jurisdiction, on the application of a creditor, adjudicating the Company a bankrupt or insolvent or approving a petition seeking reorganization of the Company, or appointing a receiver, trustee or liquidator of the Company or of all or a substantial part of its assets.

E. Sale of Assets. This Agreement may be terminated by either party in the event of a sale o substantially all of the assets of the Company under circumstances where the obligations of the Company under this Agreement are not assumed by the purchaser (or an affiliate thereof) and, wher Medical Director is not engaged by the purchaser (or an affiliate thereof) within thirty (30) days of the closing of such transaction, Medical Director shall be deemed to have been given immediate notice of termination.

F. Termination Without Cause. This Agreement may be terminated by either party at any time for any reason by providing the other party at least thirty (30) days written notice of termination.

14. WAIVER

A waiver of the breach of any covenant, agreement, term or condition of this Neither the failure nor any delay on the part of any party to exercise any right, Agreement by either party shall not constitute a waiver of any subsequent breach or breaches. remedy, power or privilege (hereinafter "Right") under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of the same or of any other Right, nor shall any waiver of any Right with respect to any other occurrence. No waiver shall be effective unless it is in writing and is signed by the party asserted to have granted such waiver.

15. COMPLIANCE

All applicable statutes, rules regulations and standards of any and all government authorities and regulatory and accreditation bodies relating to medical directors, physicians and hospitals, and to the provision of Vida Spa center services, shall be fully complied with by all parties hereto. Insofar as Sections 952 of P.L. 96-499 (42 U.S.C. 7 (a) until the expiration of five years (5) after the furnishing of such (b) if the Medical Director carries out any of the duties of this Agreement.

16. BILLING

Medical Director agrees that all fees, charges and income arising out of Medical Director's services on behalf of the Company during the term of this Agreement shall be and remain the property of the Company. Medical Director irrevocably assigns and transfers to the Company all right, title and interest of Medical Director to any fees, charges or income (whether in cash, accounts, goods or other property of value) resulting from or incident to Medical Director's practice of medicine pursuant to this Agreement and does hereby appoint the Company as Medical Director's exclusive agent and attorney-in-fact to bill and collect the same and to enforce Medical Director's interest therein. In the event patients pay their fees directly to the Medical Director, any amounts so collected shall be promptly paid over or endorsed by the necessary parties for deposit in bank accounts in the name of the Company. The Company shall not be liable to the Medical Director for: (i) the Company's decision made in good faith concerning billing and collection matters, (ii) any violation of law by Medical Director regarding billing or collection that arises as a result of Medical Director's actions or failures to act, or (iii) any economic impact of the actual inability to collect fees for services rendered. Moreover, Medical Director

appoints the Company or its designee as his exclusive agent and gives the Medical Director or its designee the exclusive right to negotiate and execute on his behalf all contracts providing payment for services with third party payment programs, health maintenance organizations, alternate health care delivery systems, insurers, employers and any other payers. Medical Director agrees not to participate in any such payment program or health care delivery plan without the prior written consent of the Company.

17. RECORDS AND REPORTS

All records pertaining to the provision of care of patients at the Center shall be the property of the Company and shall at all times be freely available for the use of the Medical Director, provided, however, that such records may not be removed from the Company without the Company's specific consent

18. NOTICES

Notices or communications required or permitted to be given under this Agreement shall be given to the respective parties in writing, by registered or certified mail, postage prepaid, (said notice being deemed given as of the date of mailing) or delivered personally to the addresses at the following addresses unless a party shall otherwise designate a change of address by notice to the other party.

19. S O A

The section headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. The recitations set forth at the beginning of this Agreement are incorporated as part of this Agreement as if fully set forth herein.

20. GOVERNING LAW/VENUE

This Agreement shall be construed and enforced in accordance with the laws of the State of Nevada, and venue for any action taken based on this Agreement shall lie in Clark County, Nevada.

21. ASSIGNMENT

No assignment of this Agreement or the right and obligations hereunder shall be valid without the specific written consent of both parties.

22. ENTIRE AGREEMENT

This Agreement supersedes all previous contracts or agreements between the parties with respect to the subject matter hereof, and constitutes the entire Agreement between the parties.

23. AMENDMENTS

This Agreement may be amended only by an instrument in writing signed in the manner provided in this Agreement, effective as the date stipulated therein.

24. INDEMNIFICATION

Medical Director agrees to indemnify and hold the Company harmless from and against any and all costs, losses, claims, demands and liabilities, including reasonable attorneys' fees and costs, which arise out of or relate to or are attributable to any and all acts and omissions by the Medical Director, including for any negligent or intentional act, any act or omission allegedly constituting professional negligence, and any act not authorized under the terms of this Agreement. Medical Director's duty to indemnify and hold the Company harmless shall include, but not be limited to, any cost, loss, claim, demand, denial or liability as a result of an overpayment claimed by any payer for services rendered pursuant to this Agreement or any other overpayments directly related to services ordered by the Medical Director. If the Company or any of its shareholders, parent corporations, subsidiaries or affiliates is made a party to any litigation or obligation or otherwise incurs any loss or expense as a result of Medical Director's activities described herein, Medical Director shall forthwith upon demand reimburse the Company for all expenses incurred as a result thereof. The parties agree, however, that to the extent such cost, loss, claim or demand is compensated for by a policy of insurance, the Medical Director shall not be obligated to indemnify the Company. Any amounts owed to the Company hereunder may be withheld by the Company from outstanding amounts due to the Medical Director and by them or their representatives as of the day and year first above written

25. EXECUTION

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed

VIDA SPA, LLC

Dated: Oct/11/2018

By: Gisselle Platfoot

Its: [illegible]

MEDICAL DIRECTOR

Dated: 10/11/2018

By: Kiarash Mirkia MD

Its: _____

Marjorie Belsky, M.D.

702-501-3129

Business Address:	6125 W. Sahara Avenue Las Vegas, NV 89146
Specialty:	**Interventional Pain Management**
Medical License:	Nevada License
Residency:	**University of California, San Francisco Medical Center** San Francisco, CA, July 2004 *Pain Management Fellowship* **University of California, Irvine Medical Center** Orange, CA, June 2003 *Anesthesiology Residency* **Jersey Shore Medical Center** Neptune, NJ, June 2000 *Preliminary Medicine Residency*
Post Grad Education:	**University of New Hampshire School of Law** **Focus on IP and Healthcare (data and drug law)** Concord, NH Class of 2023 **Technion-Israel Institute of Technology** Haifa, Israel, June 1999 *Degree: Doctor of Medicine* Faculty of Medicine **Touro College School of Health Sciences** Dix Hills, NY, September 1995 *Degree: Master of Arts* Interdisciplinary Biological and Physical Sciences
Undergraduate Education:	**Emory University** Atlanta, GA, May 1993 *Degree: Bachelor of Science* Biology & Art History; Minor is Studio Art

Professional Certifications:

Nevada State Board of Medical Examiners

American Board of Anesthesiology Certification Pain Medicine – September 2006
Recertification – October 2015

Professional Memberships:

American Society of Interventional Pain Physicians
Active Member

American Board of Anesthesiology
Active Member

Physicians for Patient Protection
Active Member

American Medical Association
Active Member

Becker's Hospital Review
Reviewer 2019
Speaker Panelist for 2020, 2021

Professional Experience:

MICOE Ambulatory Surgery Center
Co-Owner, CEO
Las Vegas, NV 2012 - 2022

Integrated Pain Specialists
Private Practice
Las Vegas, NV 2006 – Present

Desert Sunset Pain Consultants
Las Vegas, NV
Per Diem, 2016

Kaiser Permanente
Interventional Pain
Panorama City, CA 2005

Phoenix Pain Medicine
Interventional Pain Management Group
Beverly Hills, CA 2004

Studio M Laser and Cosmetic Clinic

Owner and Operator, 2004 – 2005

Rollins Research Center
Pharmacology Laboratory Technician
Emory University, 1991 – 1992
Atlanta, Georgia

Centers for Disease Control
Atlanta, Georgia
Polymerase Laboratory, 1990-1991

Research Experience:

Plasma Disc Decompression: A Minimally Invasive Disc Decompression Study
Authors: William Muir, M.D.; Marjorie Belsky, M.D.; Mario Tarquino, M.D.; Jeffrey Muir, M.D.; Mayo Clinic, MN

Color Coded Duplex Ultrasound Compared to CT Angiography on the Detection of Carotid Artery Stenosis
Advisor: Diana Giatinni, M.D.; Department of Diagnostic Radiology, Rambam Medical Center, Haifa, Israel, 1997

Master's Thesis: *The Physiological Effects of Sarin Nerve Gas,* Touro College School of Health Sciences, Dix Hills, NY 1995

Research Assistant: *Incidence of Chlamydia Pharyngitis Outbreaks and Identification of Strains Contributing to Virulence*

Presentations:

Presentation: *Managing Your ASC During COVID19*
Becker's Healthcare
Becker's ASC 27th Annual Meeting: The Business and Operations of ASCs
Chicago, IL, October 2020 and October 2021

Presentation: *Managing Your ASC During COVID19*
Becker's Healthcare
Virtual Meeting
June 2020

Presentation: *Plasma Disc Decompression: A Minimally Invasive Decompression Study*

International Spine Intervention Society
18th Annual Scientific Meeting
Wailea, Maui, Hawaii, July 2010

Presentation: *Plasma Disc Decompression: A Minimally Invasive Decompression Study*
American College of Spine Surgery
Contemporary Concepts in Spine Surgery
Newport Beach, CA, June 2010

Presentation: *Plasma Disc Decompression: A Minimally Invasive Decompression Study*
Pain Week National Conference at Red Rock
Las Vegas, NV, August 2009

Grand Rounds UCSF
Intrathecal Delivery Pumps – Implantation and Clinical Application, January 2004

Presentation: *Exacerbation of Myasthenic Disease Post-Thymectomy*
Western Anesthesiology Residents Conference
San Diego, CA, May 2000 and
Post Graduate Anesthesiology Conference
New York, NY, December 2001

Lecture: *The Brain Breathing Circuit*
American Society of Anesthesiologists Conference
New Orleans, LA, October 2001

Lecture: *Color Coded Duplex Ultrasound Compared to CT Angiography on the Detection of Carotid Artery* Stenosis Annual Radiology Conference of Israel, November 1998

Papers: On SSRN. "*The Scarlet Letter***.** How blockchain can work to protect your healthcare data. 2021

MARJORIE E. BELSKY, M.D.

9333 W. Sunset Road, Suite A
Las Vegas, NV 89148

TRIAL APPEARANCES

Lori Kolbert vs. Michael Perry, New-Com Inc. et al — July 7, 2009
Clark County District Court, Case No: 07A535322
Department 10, Honorable Jessie Walsh
Plaintiff Attorney: Joseph Benson
Defense Attorney: Michael Hall
For plaintiff

Amber Hager vs. Renee Olis — July 19, 2010
Clark County District Court, Case No: 08A570596
Department 4, Honorable Kathy Hardcastle
Plaintiff Attorney: Brian Nettles
Defense Attorney: James Smedley
For plaintiff

Shalaya Wilson vs. Dennis Harkey — September 1, 2010
Clark County District Court, Case No: 08A569772
Department 22, Honorable Susan Johnson
Plaintiff Attorney: Roger Cram
Defense Attorney: Michael Hall
For plaintiff

Alexa Wagaska, Debra Daniel Sacha Mitchell (MINOR) vs. Suzanne Miller, Brad Miller
Clark County District Court, Case No: 08A570596 — May 31, 2010
Department 4, Honorable Kathy Hardcastle
Plaintiff Attorney: Roger Steggerda
Defense Attorney: Thomas Winner
For defense

Lee Klein, Aaron Sweet vs. Karen Biddle, Margie Biddle January 12, 2012

Clark County District Court, Case No: A-10-614051-C
Department 1, Honorable Kenneth Cory
Plaintiff Attorney: R. Todd Terry
Defense Attorney: Cecilia Ventimiglia
For plaintiff

Eugene Moseng vs. Kennethy White, Ace Cab Inc. April 24, 2012

Clark County District Court, Case No: 08A565578
Department 16, Honorable Timothy Williams
Plaintiff Attorney: Jason Maier
Defense Attorney: Kurt Lambeth
For plaintiff

Monica Gomez vs. Alejandro Barrera-Mejia & Does 1-10 February 13, 2013

Clark County District Court, Case No: A643135
Department 20, Honorable Judge Tao
Plaintiff Attorney: Matthew Vannah
Defense Attorney: Yianna Reizakis
For defense, appeal and settled

Ricardo Acosta (Short Trial) January 14, 2014

Clark County District Court, Case No: A-11-636746-C
Department 6, Honorable Harry Marquee
Plaintiff Attorney: Ralph Schwartz
Defense Attorney: Craig Anderson
For Plaintiff

Barbara Bordeaux Trial October 9, 2014

Clark County District Court, Case No: A-13-686031-C
Department 30, Honorable Jerry Wiese
Plaintiff Attorney: Vannah & Vannah
Defense Attorney: Hall, Jaffe & Clayton
For defense

James H. Westbrook vs. Aaron J. Jacobson July 27, 2015

Clark County District Court, Case No: A-13-683-999-C
Department 26, Honorable Gloria Sturman
Plaintiff Attorney: Dennis Prince
Defense Attorney: Gordon Park
For plaintiff

Tina So vs. Ruben Angel Colon-Cruz, et al. February 24, 2016

Clark County District Court, Case No: A-14-696533-C
Department 17, Honorable Michael Villani
Plaintiff Attorney: Ka H. Leung
Defense Attorney: Boone Cragun
For defense

Oscar Gatez vs. Amber Harley October 26, 2016

Clark County District Court, Case No: A-14-695043-C
Department 28, Honorable Ronald J. Israel
Plaintiff Attorney: Michael Hamilton
Defense Attorney: George Ranalli
For defense

Rebecca Dana vs. Frank and Kady Casuallo March, 2016

Clark County District Court, Case No: A-13-678142-C
Department 28, Honorable Ronald J. Israel
Plaintiff Attorney: Imanuel B. Arin
Defense Attorney: Thomas E. Winner
For defense

Jun Il Hong vs. David Brooks, Westco Trucking LLC February 22, 2019

Clark County District Court, Case No: A-16-744332-C
Department 4, Honorable Kerry Earley
Plaintiff Attorney: David Churchill
Defense Attorney: Trevor Atkin
For plaintiff

MARJORIE E. BELSKY, M.D.

DEPOSITION LIST

2010

1. 01/19/2010, Deposition for Luz Rangel, 8:00 a.m.
2. 02/02/2010, Deposition for Leo Archambault, 8:00 a.m.
3. 02/23/2010, Deposition for Lovato, 8:00 a.m.
4. 03/09/2010, Deposition for Trial, 3:00 p.m.
5. 03/16/2010, Deposition for Lee Norwood, 8:00 a.m.
6. 03/23/2010, Deposition for Hector Ruiz-Gurenna, 8:00 a.m.
7. 04/20/2010, Deposition for James Daniel, 8:00 a.m.
8. 04/27/2010, Deposition for Michael Mova, 8:30 a.m.
9. 05/04/2010, Deposition for Isabel Gonzalez, 8:30 a.m.
10. 05/25/2010, Deposition for Daniel Chavez, 8:30 A.M.
11. 06/01/2010, Deposition for Rita Pacheco, 8:00 a.m.
12. 06/22/2010, Deposition for Stephen Van Herrevelt, 8:00 a.m.
13. 06/29/2010, Deposition for May Ilano, 8:00 a.m.
14. 07/06/2010, Deposition for Ray Llamas, 9:00 a.m.
15. 07/13/2010, Deposition for Rosemary Hutchinson, 8:30 a.m.
16. 07/20/2010, Deposition for Josh Harris, 8:00 a.m.
17. 07/20/2010, Deposition for Jason White, 8:30 a.m.
18. 07/27/2010, Deposition for Anthony Jones, 8:30 a.m.
19. 08/10/2010, Deposition for Alan Moceo, 8:00 a.m.
20. 08/24/2010, Deposition for Sacha Mitchell, 8:00 a.m.
21. 08/31/2010, Deposition for Doreen Hober, 8:30 a.m.
22. 09/14/2010, Deposition for Jodi Drexel, 8:00 a.m.
23. 11/26/2010, Deposition for Billie Joann Gonzalez, 8:00 a.m.
24. 11/23/2010, Deposition for Janet McClendon, 8:00 a.m.

2011

1. 02/08/2011, Deposition for Caridad Abreu, 3:00 p.m.
2. 02/15/2011, Deposition for Tina Athow, 3:00 p.m.

3. 02/22/2011, Deposition for Cherie Dubois, 3:00 p.m.
4. 03/01/2011, Deposition for Ruby Arroyo, 3:00 p.m.
5. 03/08/2011, Deposition for Marcy Mason, 3:00 p.m.
6. 03/15/2011, Deposition for Manuela Rodriguez, 3:00 p.m.
7. 03/22/2011, Deposition for Pamela Ashley, 2:00 p.m.
8. 03/29/2011, Deposition for William Pruitt, 3:00 p.m.
9. 04/05/2011, Deposition for Akilah Andrades, 3:00 p.m.
10. 04/26/2011, Deposition for Ray Gallo, 3:00 p.m.
11. 05/10/2011, Deposition for Horst Pikuhust, 3:00 p.m.
12. 05/24/2011, Deposition for Bobby Combs, 3:00 p.m.
13. 05/31/2011, Deposition for Lanie Bennet, 3:00 p.m.
14. 06/28/2011, Deposition for Khajeta Pompa, 3:00 p.m.
15. 07/20, 2011, Deposition for Trisha Galang, 4:00 p.m.
16. 08/16/2011, Deposition for Dixie McMehan, 3:00 p.m.
17. 12/06/2011, Deposition for Tegan Jennings, 3:00 p.m.
18. 12/28/2011, Deposition for Helen Carpenter, 3:00 p.m.

2012

1. 01/10/2012, Deposition for Zachary Manibusan, 3:00 p.m.
2. 01/17/2012, Deposition for Vincent Sullenberger, 10:00 a.m.
3. 01/24/2012, Deposition for Robertta Nassar, 2:30 p.m.
4. 02/07/2012, Deposition for Sabrina Langford, 11:00 a.m.
5. 02/21/2012, Deposition for John Crowley, 10:00 a.m.
6. 03/06/2012, Deposition for Michelle Hawley, 2:30 p.m.
7. 03/13/2012, Deposition for Monica Benway, 10:00 a.m.
8. 04/03/2012, Deposition for Yesina Acre, 1:00 p.m.
9. 04/24/2012, Trial for Eugenen Moseng
10. 05/01/2012, Deposition for Chad Tuttle, 10:00 a.m.
11. 06/19/2012, Deposition for Chantel Godines, 10:00 a.m.
12. 07/24/2012, Deposition for Robert Lusk, 2:00 p.m.
13. 07/31/2012, Deposition for Maria Juarez, 2:00 p.m.
14. 08/07/2012, Deposition for S. Sill, 10:00 a.m.
15. 09/25/2012, Deposition for Gardner, 12:00 p.m.
16. 10/09/2012 Deposition for Frazier, 10:00 a.m.
17. 10/23/2012, Deposition for Augustina Gonzalez, 8:30 a.m.
18. 10/30/2012, Deposition for Brenda Karatas, 10:00 a.m.

19. 11/06/2012, Deposition for Brian J. Clark, 9:00 a.m.
20. 11/06/2012, Deposition for Diane Cohen, 2:00 p.m.
21. 11/13/2012, Deposition for Brian Shehan, 1:30 p.m.
22. 11/27/2012, Deposition for Willie Winds, 9:00 a.m.
23. 11/27/2012, Deposition for Margaret Seastrand, 10:00 a.m.
24. 12/04/2012, Deposition for Leona T. Dixon-Spaan, 10:00 a.m.
25. 12/11/2012, Deposition for Wayne Hayes, 11:00 a.m.
26. 12/18/2012, Deposition for Deborah D'Amico, 9:00 a.m.

2013

1. 01/15/2013, Deposition for Caralina Armburo-Lizarro, 9:00 a.m.
2. 01/22/2013, Deposition for Brittany Spurlock, 9:00 a.m.
3. 01/22/2013, Deposition for Rosena Pipitone, 10:00 a.m.
4. 01/29/2013, Deposition for Donald Pierce Wilson, 9:00 a.m.
5. 01/29/2013, Deposition for Gerald Kirt, 10:00 a.m.
6. 02/05/2013, Deposition for Sierra Snyder, 9:00 a.m.
7. 02/12/2013, Deposition for Monica Gomez, 1:30 p.m.
8. 02/26/2013, Deposition for Robel Begashaw, 10:00 a.m.
9. 03/05/2013, Deposition for Gerald Kirt, 9:00 a.m.
10. 03/12/2013, Deposition for Albert Haas, 9:00 a.m.
11. 03/19/2013, Deposition for Augustina Gonzalez, 9:00 a.m.
12. 04/09/2013, Deposition for Dawn and Jessica Beavers, 9:00 a.m.
13. 04/16/2013, Deposition for Geniva Martinez
14. 04/30/2013, Deposition for Margaret Seastrand, 9:00 a.m.
15. 04/30/2013, Deposition for Manuela Hernandez, 10:00 a.m.
16. 06/04/2013, Deposition for Sharon McDowell, 9:00 a.m.
17. 06/18/2013, Deposition for Juan Sainz, 10:00 a.m.
18. 06/25/2013, Deposition for Lilia Alcaraz, 9:00 a.m.
19. 07/30/2013, Deposition for Jon Halter, 10:00 a.m.
20. 08/06/2013, Deposition for Robert Lombard, 9:00 a.m.
21. 08/06/2013, Deposition for Blanca Velasquez, 10:00 a.m.
22. 08/13/2013, Deposition for Teresita Sanchez, 9:00 a.m.
23. 09/10/2013, Deposition for Redecel Teran Hernandez, 9:00 a.m.
24. 09/10/2013, Deposition for Dante Burnwell, 10:30 a.m.
25. 09/17/2013, Deposition for Maria Teran, 9:00 a.m.
26. 09/17/2013, Deposition for David Markall, 10:00 a.m.

27. 09/24/2013, Deposition for Amisha Kent, 9:00 a.m.
28. 09/24/2014, Deposition for Caitlin Mcallister, 10:00 a.m.
29. 10/01/2013, Deposition for Martha Burdick, 9:00 a.m.
30. 10/01/2013, Deposition for Patricia Mccourt, 10:00 a.m.
31. 10/08/2013, Deposition for Barbara Dekeado, 9:00 a.m.
32. 10/15/2013, Video Deposition for Artemio Nava, 9:00 a.m.
33. 10/22/2013, Deposition for Luis Padilla, 9:00 a.m.
34. 10/22/2013, Deposition for Nicole Weikle, 10:00 a.m.
35. 10/29/2013, Deposition for Rob Molina, 9:00 a.m.
36. 11/05/2013, Deposition for Reydecel Teran Hernandez, 9:00 a.m.
37. 11/05/2013, Deposition for Katrina Hancock, 10:00 a.m.
38. 11/12/2013, Deposition for Blanca Velazquez-Ramirez, 9:00 a.m.
39. 11/12/2013, Deposition for Breonca Casey, 10:00 a.m.
40. 11/19/2013, Deposition for Patricia Brown, 9:00 a.m.
41. 11/26/2013, Deposition for Blanca Velazquez Ramirez, 10:00 a.m.
42. 12/03/2013, Deposition for Vivian Anderson, 9:00 a.m.
43. 12/03/2013, Deposition for Marilyn Mitchell, 10:00 a.m.
44. 12/03/2013, Deposition for Breonca Casey, 11:00 a.m.
45. 12/17/2013, Deposition for Tou Lee, 9:00 a.m.

2014

1. 01/14/2014, Deposition for Christopher Rocha, 10:00 a.m.
2. 01/21/2014, Deposition for Tou Lee, 9:00 a.m.
3. 01/21/2014, Deposition for Blanca Velasquez Ramirez, 11:00 a.m.
4. 01/28/2014, Deposition for Paulette Kimura-Shimabukuro, 10:00 a.m.
5. 02/11/2014, Deposition for Stephanie Macklin, 9:00 a.m.
6. 02/11/2014, Deposition for Maria Rodriguez, 10:00 a.m.
7. 02/18/2014, Deposition for Robert Barnes, 9:00 a.m.
8. 02/25/2014, Deposition for Christopher Johnson, 10:00 a.m.
9. 03/04/2014, Deposition for Kelly Ann Combs, 11:00 a.m.
10. 03/11/2014, Deposition for Stephanie Macklin, 9:00 a.m.
11. 03/11/2014, Deposition for Ashley Casillas, 10:00 a.m.
12. 03/25/2014, Deposition for David Figueroa, 9:00 a.m.
13. 04/01/2014, Deposition for Ladarus Smith, 10:00 a.m.
14. 04/08/2014, Deposition for Stephanie Macklin, 10:00 a.m.
15. 04/29/2014, Deposition for Laurie Todd, 10:00 a.m.
16. 05/20/2014, Deposition for Kenny Staten, 10:00 a.m.

17. 06/03/2014, Deposition for Andre Coleman, 9:00 a.m.
18. 06/24/2014, Deposition for Devra Haney-Williams, 10:00 a.m.
19. 07/01/2014, Deposition for Kayla Carr, 9:00 a.m.
20. 07/08/2014, Deposition for Zoila Kaniaupio, 9:00 a.m.
21. 07/29/2014, Deposition for John Dibetta, 9:00 a.m.
22. 08/19/2014, Deposition for Carmelo Enspinosa-Rojas, 9:00 a.m.
23. 08/26/2014, Deposition for Natsuko Richardson, 9:00 a.m.
24. 08/26/2014, Deposition for Silvia Ruelas, 10:00 a.m.
25. 09/09/2014, Deposition for Robert Gallardo, 8:30 a.m.
26. 09/09/2014 Deposition for Cecilia Nungaray-Perez, 9:30 a.m.
27. 09/16/2014, Deposition for Roberto Diaz, 9:00 a.m.
28. 09/30/2014, Deposition for Nicola Cozier, 9:00 a.m.
29. 10/07/2014, Deposition for Andres Castillo-Martinez, 9:00 a.m.
30. 10/21/2014, Deposition for Jovita Baldomar, 9:00 a.m.
31. 10/21/2014, Deposition for Ja.m.es Westbrook, 10:00 a.m.
32. 11/04/2014 Deposition for Patrick Keller, 9:00 A.M.
33. 11/10/2014 Deposition for Guillermina Reveles, 10:00 a.m.
34. 11/18/2014 Deposition for Elido Rocha, 9:00 a.m.
35. 12/09/2014 Deposition for Angelo Micheal, 7:30 a.m.
36. 12/09/2014 Deposition for Maria Ibarra, 8:30 a.m.

2015

1. 01/13/2015, Deposition for Clarence Cutting, 8:00 a.m.
2. 01/13/2015, Deposition for Maritza Betello, 9:00 a.m.
3. 01/26/2015, Deposition for Mark Fleshman, 8:00 a.m.
4. 02/03/2015, Deposition for Cory Workman, 8:00 a.m.
5. 02/10/2015, Deposition for Rebecca Dana, 8:00 a.m.
6. 02/24/2015, Deposition for Carlos Rodriquez-Rafael 9:00 a.m.
7. 03/03/2015, Deposition for Suzanne Johnson, 8:30 a.m.
8. 03/10/2015, Deposition for Mario Lpez-Resenda, 8:30 a.m.
9. 03/10/2015, Deposition for David Diaz Anaya, 9:30 a.m.
10. 03/17/2015, Deposition for Hae Chong, 9:00 a.m.
11. 03/23/2015, Video Deposition for Carmela Damasco, 7:30 a.m.
12. 04/13/2015, Video Deposition for Albino Torres, 8:30 a.m.
13. 04/14/2015, Deposition for Kristen Morris, 9:00 a.m.
14. 04/20/2015, Deposition for Jose Caballos Herrera, 8:00 a.m.

15. 04/27/2015, Deposition for Jorge Topete-Lopez, 9:00 a.m.
16. 04/28/2015, Deposition for Shannon Ireland, 8:00 a.m.
17. 05/04/2015, Deposition for Rabih Hamdan, 8:00 a.m.
18. 05/04/2015, Deposition for Brian Johnson, 9:00 a.m.
19. 05/05/2015, Deposition for Christina Johnson, 8:00 a.m.
20. 06/29/2015, Deposition for Sue Kennedy, 8:00 a.m.
21. 07/06/2015, Deposition for Treta Pavon, 8:00 a.m.
22. 07/06/2015, Deposition for Geina Chavira-Silet, 9:00 a.m.
23. 07/07/2015, Deposition for Susana Villegas-Quintana, 8:00 a.m.
24. 09/08/2015, Deposition for Afshin Tadayon, 7:00 a.m.
25. 09/21/2015, Deposition for Ariana Maskunas, 7:30 a.m.
26. 09/22/2015, Deposition for Randy Weaver, 8:00 a.m.
27. 09/28/2015, Deposition for Josefina Lopez-Bautista, 7:00 a.m.
28. 09/29/2015, Deposition for Sam Boyd, 7:00 a.m.
29. 10/05/2015, Deposition for Yolanda Leal, 7:30 a.m.
30. 10/06/2015, Deposition for Terry Malan, 7:00 a.m.
31. 10/19/2015, Deposition for Bradley Fischer, 7:00 a.m.
32. 10/20/2015, Deposition for Roderick Wise, 7:30 a.m.
33. 11/02/2015, Deposition for Rosacruz Barillas, 7:30 a.m.
34. 11/09/2015, Deposition for Celeste Cahill, 7:00 a.m.
35. 11/09/2015, Video Deposition for Shukrije Muja, 8:00 a.m.
36. 11/23/2015, Deposition for Daniel Cade, 7:00 a.m.
37. 11/23/2015, Deposition for Alma Cordova-Garcia, 8:00 a.m.
38. 12/14/2016, Deposition for Oscar Flores, 7:00 a.m.
39. 12/14/2016, Deposition for Abel Sosa-Pitalua, 8:00 a.m.

2016

1. 1/11/16, Deposition for Jaime Claros Aguilar, 7:00 a.m.
2. 01/11/2016, Deposition for Debra Green, 8:00 a.m.
3. 02/01/2016, Deposition for Caroline Oliveira Da Silva, 7:00 a.m.
4. 02/08/2016, Deposition for Jamie Harrison, 7:00 a.m.
5. 03/07/2016, Deposition for Kirk Kindle, 8:00 a.m.
6. 03/14/2016, Deposition for Fanuel Lopez-Olivas, 7:00 a.m
7. 03/14/2016, Deposition for Spring Hebler, 8:00 a.m.
8. 03/21/2016, Deposition for Oscar Gatez, 7:00 a.m.
9. 04/11/2016, Deposition for Alma Corona, 7:00 a.m.
10. 04/11/2016, Deposition for Angelica Padilla, 8:00 a.m.

11. 04/18/2016, Deposition for Bertha Pelayo-Morales, 7:00 a.m.
12. 04/18/2016, Deposition for Leslie Pelayo-Morales, 8:00 a.m.
13. 04/23/2016, Deposition for Lisa Williams, 7:00 a.m.
14. 04/23/2016, Deposition for Joshua Taylor, 8:00 a.m.
15. 05/16/2016, Deposition for Orlando Diaz, 7:00 a.m.
16. 08/01/2016, Deposition for Marjorie Morales, 7:00 a.m.
17. 08/01/2016, Deposition for Jason Sotomayor, 8:00 a.m.
18. 10/05/2016, Deposition for Esperanza Dominguez-Cruz, 7:30 a.m.
19. 11/15/2016, Deposition for Madelin Truebas, 7:00 a.m.
20. 12/07/2016, Deposition for Andres Galindo, 7:30 a.m.

2017

1. 1/11/2017, Continued Deposition for Madelin Truebas, 7:30 a.m.
2. 04/18/2017, Deposition for Steven Alvarez, 7:00 a.m.
3. 04/25/2017, Deposition for Brandon Yates, 7:00 a.m.
4. 05/09/2017, Deposition for Timothy Boytor, 7:00 a.m.
5. 05/09/2017, Deposition for Jose Navarette-Serrano, 8:00 a.m.
6. 08/22/2017, Deposition for Kenya Zimmerman, 7:00 a.m.
7. 10/04/2017, Deposition for Rocco Avelini, 7:00 a.m.
8. 10/10/2017, Deposition for Nicolas Fernandez, 7:00 a.m.
9. 10/11/2017, Deposition for Michelle Luxtrum, 9:00 a.m.
10. 11/08/2017, Deposition of Amy Reynolds, 8:00 a.m.
11. 11/08/2017, Deposition of Carlos Chavez-Belmonte, 9:00 a.m.

2018

1. 2/14/18, Deposition for Forina Chavez-Lomeli, 10:00 a.m.
2. 2/14/18, Deposition for Deborah Dube, 11:00 a.m.
3. 4/18/18, Deposition for Linda Gallego, 7:00 a.m.
4. 4/18/18, Deposition for Amanda Rasavage, 8:00 a.m.
5. 6/27/18, Deposition for Henry Lujan, 7:00 a.m.
6. 6/27/18, Deposition for Tamara Pierce, 8:00 a.m.
7. 9/20/18, Video Deposition for Brenda Thompson, 9:00 a.m.
8. 11/6/18, Video Deposition for Jose Torres, 10:00 a.m.

2019

1. 3/5/19, Deposition for Brenda Thompson (Part 2), 9:00 a.m.
2. 11/29/19, Deposition for Richard Greene, 8:30 a.m.

MARJORIE E. BELSKY, M.D.

DEFENSE REPORTS

2007	Nevada BME
2019	United States of America vs. Michael Moran, MD- pending trial

MARJORIE E. BELSKY, M.D.

PLAINTIFF REPORTS

02/13/2014 Omar Jones

01/15/2015 Ludivina Garcia

02/17/2015 Ludivina Garcia - Rebuttal

03/15/2015 Venus Bobadilla

03/20/2015 Floremliza Montano

04/08/2015 Ariana Maskunas

04/09/2015 Ellie Brock

05/03/2015 Ariana Maskunas - Supplemental

06/15/2015 Tina So

03/07/2016 Mario Valladares

04/08/2016 Marc McMahan

02/28/2017 Jessica Kunkel

10/15/2018 Lorena Reyes-Decorral

12/31/2018 Lorena Reyes-Decorral - Supplemental

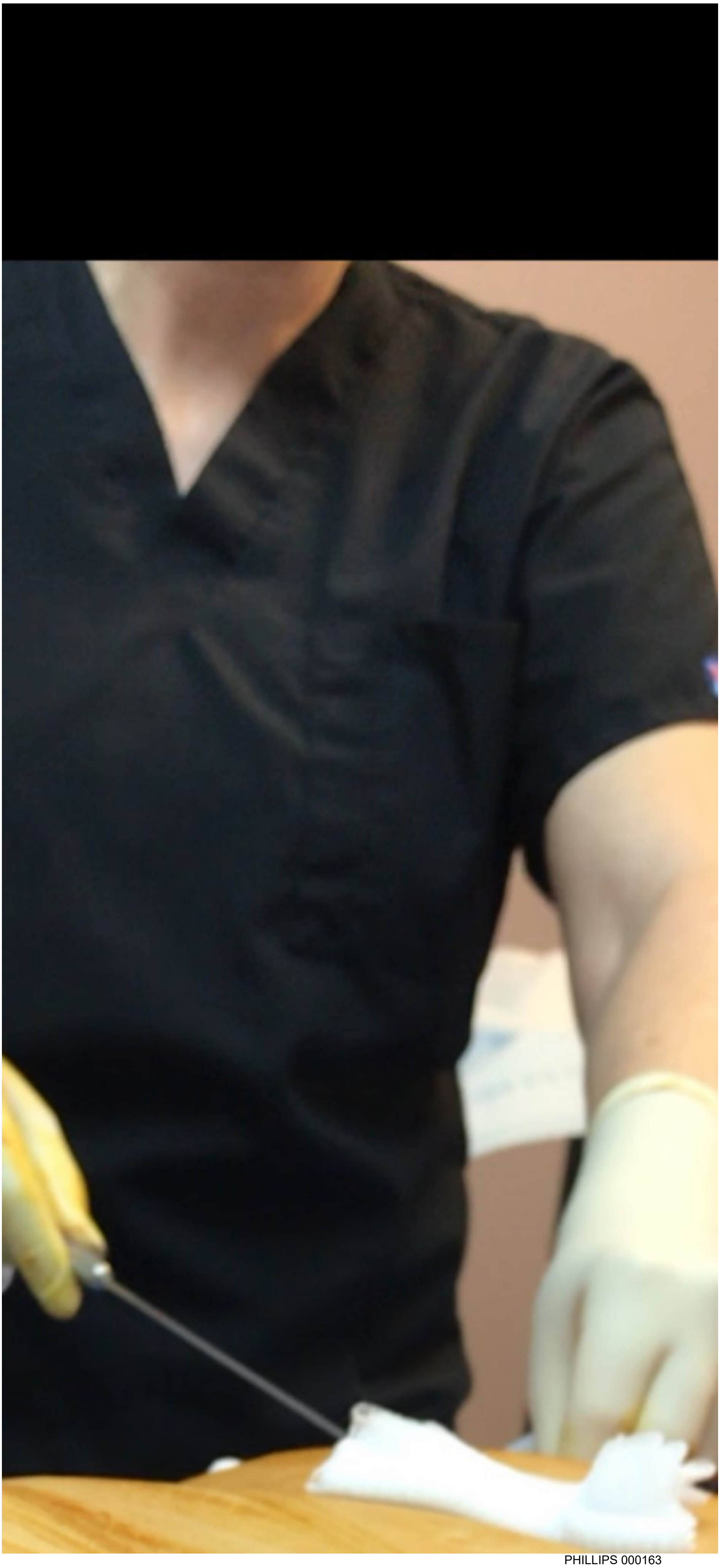
03/08/2019 Richard Greene

03/20/2022 Christopher Tomko

03/14/2022 Catherine Johnson – Medical Malpractice

MEDICAL RECORDS

This exhibit contains personal medical information, records of a patient or other personal identifying information that is confidential and otherwise protected from disclosure to the public pursuant to NRS 622.310.



MEDICAL RECORDS

This exhibit contains personal medical information, records of a patient or other personal identifying information that is confidential and otherwise protected from disclosure to the public pursuant to NRS 622.310.

AFFIDAVIT OF SALVADOR G. BORROMEO

STATE OF NEVADA)
)ss:
COUNTY OF CLARK)

I, Salvador G. Borromeo, hereby swear and affirm as follows:

1. I was introduced to Vida Spa through Charmaine Poecci, and it was explained to me that Vida Spa was a medical spa that was licensed for aesthetics and injections.
2. Gisselle portrayed that they had been in business for several years as a licensed medical spa and facility.
3. I was mislead as to the licensing and certification of Vida Spa by Ms. Platfoot, I was informed that it was a medical spa and a medical facility.
4. I signed a contract to be Medical Director of Vida Spa in June 2020.
5. I was medical director for less than a month.
6. Within a month of being Medical Director, I received a call from Tammy Hankins PA, stating that she had performed liposuction on a patient and there were complications.
7. During my brief time as the Medical Director, I was in charge of medication prescriptions, distribution, and administration.

FURTHER AFFIANT SAYETH NAUGHT, this 10th day of October, 2022.

Salvador G. Borromeo

Subscribed and Sworn to before me this 10th day of October, 2022.

Notary Public in and for said County and State

AMI REBECCA MEYERS
Notary Public, State of Nevada
Appointment No. 14-14039-1
My Appt. Expires Jul 27, 2026

AFFIDAVIT OF ANA L. SOLANO

STATE OF NEVADA)
)ss:
COUNTY OF CLARK)

I, Ana L. Solano, hereby swear and affirm as follows:

1. I worked at Vida Spa from approximately June 1, 2020 to April 21, 2021, as a registered nurse on the aesthetic side of the spa. I saw patients for botox, fillers, consultations, and prepared procedure rooms for the patients.
2. I was under the impression that Vida Spa was fully licensed, but cannot recall any specific representations made.
3. During my employment at Vida Spa, the Medical Directors were Tammy Hankins, Charmaine Poecii, and Evelyn Rodrigues. (for aesthetic side) AS
   Porcii AS
4. Once I filled out a patient file, I would provide the file back to reception. I do not know which Medical Director was responsible for the maintenance of the patient files, but I know the Medical Director was responsible for the files.

AFFIANT SAYETH NAUGHT, this 20 day of October, 2022.

~~Ana~~ L. Solano
Anna AS

Subscribed and Sworn to before me this 20th day of October, 2022.

Notary Public in and for said County and State

JUAN CEREZO
Notary Public - State of Nevada
Appointment No. 18-1713-1
My Appointment Expires 02-07-2026

AFFIDAVIT OF KRYSTIN MOLINA

STATE OF NEVADA)
)ss:
COUNTY OF CLARK)

I, Krystin Molina, hereby swear and affirm as follows:

1. I am a licensed registered nurse.
2. I worked at Vida Spa for approximately three months, from May, 2021 to July, 2021.
3. I was given the impression during the initial employment interview that Vida Medical Spa was a licensed facility to perform all the medical procedures that they were conducting. There were two persons present during the initial employment interview. One person was from human resources, but I do not recall that persons name. The other person was Gisselle Platfoot, who was one of the owners of Vida Spa.
4. I was given the impression that Vida Spa had been in business for a while, a year or longer, and from every indication, it appeared to be a well-established established business.
5. During the time period that I was employed at Vida Spa, the business performed Botox, PRP, fat transfers, and lipo suction.
6. My duties were preparing instruments, speaking to patients, recording patients vitals during procedures and explaining some post operative procedures. I worked in the procedure room.
7. As a registered nurse, I was working under a medical director for the spa. However, I do not recall who was the medical director was, nor do I recall meeting anyone with the title of medical director.

8. I recall that there were two owners of Vida Spa, Gisselle Platfoot was one and I do not remember the other owners' name. The other owner never came into the facility.
9. Based on my observations during my time working at Vida Spa, I believe that Gisselle Platfoot was the person who was responsible and kept all medical records during the short time period that I worked there.
10. I was employed at Vida Spa when Dr. Sheep and Dr. Phillips were performing lipo suction.
11. I quit Vida Spa when State Medical Board inspectors came into the facility, and I discovered the facility was not licensed to perform the procedures it was offering and conducting.

FURTHER AFFIANT SAYETH NAUGHT, this 11th day of October, 2022.

Krystin Molina

Subscribed and Sworn to before me this 11th day of October, 2022.

Notary Public in and for said County and State

TYRIN M. KANEMEIER
Notary Public, State of Nevada
Appointment No. 17-3655-1
My Appt. Expires Oct 18, 2025

Declaration of Charmaine Poecii

State of Nevada)
)ss:
County of Clark)

I, Charmaine Poecci hereby state as follows:

1. I worked for Vida Spa for approximately one year, leaving in January of 2021.
2. I was one of the medical directors for the aesthetics side of the Spa and cannot recall the names of any others.
3. Gisselle Platfoot represented the Spa as being fully licensed for aesthetics such as Botox.
4. Gisselle had a business partner who owned a dental clinic.
5. I was never aware that Vida Spa was not licensed for the procedures they performed.
6. Medical records were kept in a closet, medical providers such as the nurses, nurse practitioners, estheticians, anyone performing a procedure, had access to the files, but they were maintained by Gisselle.
7. Per NRS 53.250 I declare under penalty of perjury, under the laws of the State of Nevada the foregoing is true and correct.

Dated this 24th day of October, 2022.

Charmaine Poecii

5

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Investigation of:

MARYANNE DEFOREST PHILLIPS, M.D.,

License No. 7635.

Case No. 21-10032-1

FILED

JUN 28 2021

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By:

ORDER OF SUMMARY SUSPENSION

The Investigative Committee[1] (IC) of the Nevada State Board of Medical Examiners (Board) hereby **IMMEDIATELY SUMMARILY SUSPENDS** the license of Maryanne D. Phillips, M.D., License No. 7635 (Licensee) from the practice of medicine, pursuant to the IC's authority provided in NRS 630.326(1). The IC has reasonably determined that the health, safety and welfare of the public and patients served by Licensee are at risk of imminent and continued harm, based upon the following preliminary findings:

1. Licensee is a physician licensed to practice medicine in the State of Nevada (License No. 7635) and was originally licensed on December 21, 1995.

2. Licensee does not hold a Drug Enforcement Administration (DEA) registration or any registration issued by the Nevada State Board of Pharmacy (NSBOP).

3. Vida Spa LLC, is a Nevada limited liability company, formed on July 22, 2016, and managed by Gisselle Platfoot, also doing business as "Vida Spa" and "Vita Medical Spa Las Vegas." Vida Spa is a self-described "medical spa" located at 3225 S Rainbow Blvd #107 and/or #206, Las Vegas, Nevada 89146. (Collectively, "Vida Spa").

4. Vida Spa is licensed in Clark County, Nevada, under Clark County Business License No. 2003447.081-172, under the business category of "Cosmetology Establishment - Other Services." The owners listed under this license are Art Matrix, Inc. and Gisselle Platfoot.

[1] The Investigative Committee of the Nevada State Board of Medical Examiners is composed of Board members Victor M. Muro, M.D., Chair, Weldon Havins, M.D., J.D., and Maggie Arias-Petrel, Public Member.

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

5. Gisselle Platfoot, Manager of Vida Spa, did not, at all times relevant to this Order, hold a license to practice any healing art as a "provider of health care," defined in NRS 629.031, from any occupational licensing board in the State of Nevada.

6. Vida Spa is "a facility that provides health care, other than a medical facility." See NRS 449.442. Neither Licensee, Vida Spa, nor Gisselle Platfoot held, or currently holds, the requisite permit, pursuant to NRS 449.442, to perform general anesthesia, conscious sedation or deep sedation at Vida Spa. Additionally, neither Licensee, Vida Spa, nor Gisselle Platfoot held a current accreditation by a nationally recognized organization approved by the Nevada State Board of Health (BOH) to perform general anesthesia, conscious sedation or deep sedation at Vida Spa.

7. On March 24, 2021, the NSBOP issued two (2) separate Citations and Orders to Cease and Desist, to Licensee, Vida Spa and Gisselle Platfoot, respectively, whereby the NSBOP separately determined that Licensee, Vida Spa and Gisselle Platfoot were possessing, administering, prescribing and/or dispensing controlled substances and/or dangerous drugs for Nevada patients from Vida Spa LLC in violation of state and federal law.

8. The NSBOP's Citation to Licensee provides that Licensee is possessing, administering, prescribing and/or dispensing controlled substances and dangerous drugs for Nevada patients from her practice in violation of federal and state law. Specifically, this citation notes that her controlled substance registration was suspended, and that she is prohibited from possessing and/or administering controlled substances. The NSBOP determined in this citation that Licensee has violated, attempted to violate, assisted or abetted in the violation of or conspired to violate, without limitation, NRS 453.226, NRS 453.316, NRS 453.32l(l)(a), NRS 453.331(l)(c)(d)(f)&(i), NRS 453.381(1), NRS 453.40l(l)(a), NRS 639.100(1), NRS 639.23505, NRS 639.281,NRS 639.2813, NRS 639.310, 21 U.S.C. § 822(a)(2), 21 U.S.C. § 823(f), 21 U.S.C. § 84l(a), 21 U.S.C. § 842(a), 21 U.S.C. § 846 and 21 CFR §§ 1306.03-1306.05. The Citation orders her to immediately CEASE and DESIST possessing, administering, prescribing and/or dispensing controlled substances for Nevada patients from her practice, and assesses an administrative fine of five thousand dollars ($5,000.00).

///

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Reno, Nevada 89521
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9. The NSBOP Citation to Vida Spa and Gisselle Platfoot similarly states that Vida Spa and Gisselle Platfoot do not have a dispensing registration and are therefore prohibited from possessing, dispensing and/or administering controlled substances and/or dangerous drugs. This citation finds that Vida Spa and Gisselle Platfoot violated, attempted to violate, assisted or abetted in the violation of or conspired to violate, without limitation, NRS 453.226, NRS 453.316, NRS 453.321(1)(a), NRS 453.331 (l)(c)(d)(t)&(i), NRS 453.381(1), NRS 453.40l(l)(a), NRS 639.0727, NRS 639.100(1), NRS 639.23505, NRS 639.281, NRS 639.2813, NRS 639.310, NAC 639.742, 21 U.S.C. § 822(a)(2), 21 U.S.C. § 823(f), 21 U.S.C. § 84l(a), 21 U.S.C. § 842(a), 21 U.S.C. § 846 and 21 CFR §§ 1306.03-1306.05. This citation orders Vida Spa and Gisselle Platfoot to immediately cease and desist possessing, administering, prescribing and/or dispensing controlled substances for Nevada patients, and also assessed an administrative fine of five thousand dollars ($5,000.00).

10. In addition to the violations of various state and federal laws pertaining to the possessing, dispensing and/or administering controlled substances and/or dangerous drugs that are the subject of the NSBOP citations, between the dates of on or about April 13, 2021, to on or about June 23, 2021, Licensee performed invasive surgical procedures, such as liposuction and fat grafting, at Vida Spa. As stated above, Vida Spa is not an accredited surgical facility and does not have a permit and has never obtained a permit from the BOH to offer the service of general anesthesia, conscious sedation or deep sedation to patients, pursuant to NRS 449.442(1).

11. Between, on or about April 13, 2021 and on or about June 23, 2021, Licensee administered Propofol for the purposes of general anesthesia, conscious sedation or deep sedation for the aforementioned invasive surgical procedures, at least seventy-two (72) times to at least seventy-two (72) individual patients, all in violation of NRS 630.373, which provides in pertinent part, in the State of Nevada a physician shall not administer or supervise directly the administration of general anesthesia, conscious sedation or deep sedation to patients unless the general anesthesia, conscious sedation or deep sedation is administered:

a. In an office of a physician or osteopathic physician which holds a permit pursuant to NRS 449.435 to 449.448, inclusive;

b. In a facility which holds a permit pursuant to NRS 449.435 to 449.448, inclusive; and

c. In a medical facility as that term is defined in NRS 449.0151.

Neither Vida Spa nor its proprietors hold any such permits issued by the BOH, and Vida Spa is not a medical facility as defined by NRS 449.0151.

12. Licensee claimed in her written response, dated May 19, 2021, to an allegation letter in this case that she "does not perform liposuction procedures at Vida Spa and never has," and that "no conscious sedation has been utilized at Vida Spa since June 2020; only tumescent local anesthesia is being used at this time."

13. Propofol is a "dangerous drug," as defined by NRS 454.201, because it is a drug, other than a controlled substance, which is unsafe for self-medication or unsupervised use, and may be sold only by prescription.

14. Licensee administered Propofol at Vida Spa for the purpose of general anesthesia, conscious sedation or deep sedation for invasive surgical procedures that she performed on these seventy-two (72) individual patients, beginning in, at the latest, April 13, 2021, and then falsified her medical records for all of the patients to reflect that she had not administered Propofol, in order to conceal the fact that Propofol was being administered for the purpose of general anesthesia, conscious sedation or deep sedation at an unpermitted and unaccredited facility, in violation of NRS 630.373.

15. Licensee, in an effort to conceal her illegal conduct, violated NRS 630.3062(1)(a), which provides that it is grounds for disciplinary action or denial of licensure to fail to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient, in each of the seventy-two (72) instances.

16. Licensee, in an effort to conceal her illegal conduct, violated standards of practice, pursuant to NRS 630.306(1)(b)(2) and NAC 630.230(1)(a), by falsifying her records of health care, which is grounds for disciplinary action or denial of licensure in each of the seventy-two (72) instances.

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17. Licensee violated NRS 630.306(1)(p), which provides that engaging in any act that is considered unsafe or unprofessional conduct, in accordance with regulations adopted by the Board, constitutes grounds for initiating disciplinary action, when she falsified medical records for the purpose of concealing the use of Propofol for general anesthesia, conscious sedation or deep sedation at Vida Spa, an unpermitted and unaccredited facility in violation of NRS 630.373(1), which is unsafe and unprofessional conduct, in each of the seventy-two (72) instances.

18. On June 25, 2021, this IC has reasonably determined that the health, safety, or welfare of the public and any patient served by Licensee is at risk of imminent and continued harm.

Accordingly, pursuant to NRS 630.326(1):

IT IS HEREBY ORDERED that the license to practice medicine in the State of Nevada of Maryanne D. Phillips, M.D. (License No. 7635) is **HEREBY SUSPENDED** until further order of the IC or the Board; and

IT IS HEREBY FURTHER ORDERED that pursuant to NRS 630.326(2), a hearing on this matter shall be set for **August 18, 2021, 9:00 a.m.**, at the Board's office located at 9600 Gateway Drive, Reno, NV, 89521 to determine whether this suspension may continue, unless the parties mutually agree in writing to a different date and/or time.

DATED this 28th day of June, 2021.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By:

VICTOR M. MURO, M.D.
Chairman for the Investigative Committee

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

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Investigation of: **MARYANNE DEFOREST PHILLIPS, M.D.,** **License No. 7635.**	**Case No. 21-10032-1**

FILED
JUL - 9 2021
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By: _____

ACCEPTANCE OF SERVICE

Lyn Beggs, Esq., counsel for, Maryanne Deforest Phillips, M.D., hereby acknowledges that she received a file-stamped copy of the ORDER OF SUMMARY SUSPENSION by the Investigative Committee of the Nevada State Board of Medical Examiners in this matter on the 28th day of June, 2021 by electronic mail, and in doing so, accepts service of same and specifically waives formal service of process by mail or by other means.

DATED this 28th day of June 2021.

LAW OFFICE OF LYN E. BEGGS, PLLC

By: _____

LYN E. BEGGS, ESQ.
316 California Ave., Suite 863
Reno, NV 89509
Tel: (775) 432-1918
Email: lyn@lbeggslaw.com
Attorney for Maryanne Deforest Phillips, M.D.

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

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: MARYANNE DEFOREST PHILLIPS, M.D., Respondent.	Case No. 21-10032-1

FILED
AUG 17 2021
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By: [signature]

COMPLAINT

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

1. Respondent was at all times relevant to this Complaint, a medical doctor holding an active license to practice medicine in the State of Nevada (License No. 7635). Respondent was originally licensed by the Board on December 21, 1995.

2. Respondent does not have a license to prescribe controlled substances issued by the Nevada State Board of Pharmacy (NSBOP).

3. Respondent is not registered with the U.S. Drug Enforcement Agency (DEA) to prescribe controlled substances.

4. Vida Spa LLC, is a Nevada limited liability company, formed on July 22, 2016, and managed by Gisselle Platfoot, also doing business as "Vida Spa" and "Vita Medical Spa Las

/ / /

[1] The Investigative Committee of the Nevada State Board of Medical Examiners at the time the Summary Suspension in this matter was authorized, consisted of Board members Victor M. Muro, M.D., Chair, Weldon Havins, M.D., J.D., and Ms. Maggie Arias-Petrel. Pursuant to NRS 630.326, a formal Complaint must be pending at the time of the summary suspension hearing in order to continue the suspension of the Respondent.

Vegas." Vida Spa is a self-described "medical spa" located 3225 S. Rainbow Blvd #107 and/or #206, Las Vegas, Nevada 89146. (Collectively, "Vida Spa").

5. Vida Spa is, and was at all times relevant to this complaint, licensed in Clark County, Nevada, under Clark County Business License No. 2003447.081-172, under the business category of "Cosmetology Establishment - Other Services." The owners listed under this license are Art Matrix, Inc. and Gisselle Platfoot.

6. Gisselle Platfoot, Manager of Vida Spa, did not, at all times relevant to this Complaint, hold a license to practice any healing art as a "provider of health care," defined in NRS 629.031, from any occupational licensing board in the State of Nevada.

7. Vida Spa is "a facility that provides health care, other than a medical facility". *See* NRS 449.442. Neither Respondent, Vida Spa, nor Gisselle Platfoot held, or currently holds, the requisite permit, pursuant to NRS 449.442, to perform general anesthesia, conscious sedation or deep sedation at Vida Spa. Additionally, neither Respondent, Vida Spa, nor Gisselle Platfoot hold a current accreditation by a national recognized organization approved by the Nevada State Board of Health (BOH) to perform general anesthesia, conscious sedation or deep sedation at Vida Spa.

8. On March 24, 2021, the NSBOP issued two (2) separate Citations and Orders to Cease and Desist, to Respondent, Vida Spa and Gisselle Platfoot, respectively, whereby the NSBOP separately determined that Respondent, Vida Spa and Gisselle Platfoot were possessing administering, prescribing and/or dispensing controlled substances and/or dangerous drugs for Nevada patients from Vida Spa, in violation of state and federal law.

9. The NSBOP's Citation to Respondent states that Respondent is possessing, administering, prescribing and/or dispensing controlled substances and dangerous drugs for Nevada patients from her practice in violation of federal and state law.

10. Specifically, this citation notes that her controlled substance registration was suspended, and that she is prohibited from possessing and/or administering controlled substances.

11. The NSBOP determined in this citation that Respondent has violated, attempted to violate, assisted or abetted in the violation of or conspired to violate, without limitation,

NRS 453.226, NRS 453.316, NRS 453.321(1)(a), NRS 453.331(1)(c),(d),(f) & (i), NRS 453.381(1), NRS 453.401(1)(a), NRS 639.100(1), NRS 639.23505, NRS 639.281, NRS 639.2813, NRS 639.310, 21 U.S.C. § 822(a)(2), 21 U.S.C. § 823(f), 21 U.S.C. § 841(a), 21 U.S.C. § 842(a), 21 U.S.C. § 846 and 21 CFR §§ 1306.03–1306.05.

12. The Citation ordered Respondent to immediately Cease and Desist possessing, administering, prescribing and/or dispensing controlled substances for Nevada patients from her practice, and also assessed an administrative fine of five thousand dollars ($5,000.00).

13. In addition to the violations of various state and federal laws pertaining to the possessing, dispensing, and/or administering controlled substances and/or dangerous drugs that are the subject of the NSBOP citations, between the dates of on or about April 13, 2021, to on or about June 23, 2021, Respondent performed invasive surgical procedures, such as liposuction and fat grafting, at Vida Spa.

14. As stated above, Vida Spa is not an accredited surgical facility and does not have a permit and has never obtained a permit from the BOH to offer the service of general anesthesia, conscious sedation or deep sedation to patients, pursuant to NRS 449.442(1).

15. Between, on or about April 13, 2021 and on or about June 23, 2021, Respondent administered Propofol for the purposes of general anesthesia, conscious sedation or deep sedation for the aforementioned invasive surgical procedures, at least seventy-two (72) times to at least seventy-two (72) individual patients, all in violation of NRS 630.373, which provides in pertinent part, that, in the State of Nevada, a physician shall not administer or supervise directly the administration of general anesthesia, conscious sedation or deep sedation to patients unless the general anesthesia, conscious sedation or deep sedation is administered:

a. In an office of a physician or osteopathic physician which holds a permit pursuant to NRS 449.435 to 449.448, inclusive;

b. In a facility which holds a permit pursuant to NRS 449.435 to 449.448, inclusive; and

c. In a medical facility as that term is defined in NRS 449.0151.

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16. Neither Vida Spa nor its proprietors hold any such permits issued by the BOH, and Vida Spa is not a medical facility as defined by NRS 449.0151.

17. Respondent, in an effort to conceal her illegal conduct, violated NRS 630.3062(1)(a) by falsifying her health care records for all fifty-nine (59) patients by failing to note that she had administered Propofol, in an attempt to conceal the fact that Propofol was being administered for the purpose of general anesthesia, conscious sedation or deep sedation at an unpermitted and unaccredited facility, in violation of NRS 630.373.

18. Because Respondent omitted information from the health care records for all fifty-nine (59) patients, these records were not timely, accurate, legible, or complete in violation of NRS 630.3062(1)(a).

19. Respondent violated the standards of practice pursuant to NRS 630.306(1)(b)(2) and NAC 630.230(1)(a), by falsifying her patients' records of health care, which is grounds for disciplinary action in each of the fifty-nine (59) instances.

20. Respondent further violated NRS 630.306(1)(p), which provides that engaging in any act that is considered unsafe or unprofessional conduct, in accordance with regulations adopted by the Board, constitutes grounds for initiating disciplinary action, when she falsified medical records for the purpose of concealing the use of Propofol for general anesthesia, conscious sedation or deep sedation at Vida Spa, an unpermitted and unaccredited facility in violation of NRS 630.373(1), which is unsafe and unprofessional conduct, in each of the fifty-nine (59) instances.

COUNTS 1-72

NRS 630.373 – Administering General Anesthesia, Conscious Sedation, or Deep Sedation at an Unaccredited Location

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

22. NRS 630.373 provides in pertinent part that, [a] physician shall not administer or supervise directly the administration of general anesthesia, conscious sedation or deep sedation to patients unless the general anesthesia, conscious sedation or deep sedation is administered: (a) In

an office of a physician or osteopathic physician which holds a permit pursuant to NRS 449.435 to 449.448, inclusive; (b) In a facility which holds a permit pursuant to NRS 449.435 to 449.448, inclusive, and (c) in a medical facility as that term is defined in NRS 449.0151.

23. Respondent administered Propofol to at least seventy-two (72) patients all in violation of NRS 630.373.

24. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

COUNTS 73-131

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

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

26. NRS 630.3062(1)(a) provides that it is grounds for disciplinary action to fail to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

27. Respondent, in an effort to conceal her illegal conduct, violated NRS 630.3062(1)(a), when she falsified the medical records of at least fifty-nine (59) patients for the purpose of concealing the use of Propofol for general anesthesia, conscious sedation or deep sedation at Vida Spa, an unpermitted and unaccredited facility.

28. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

COUNTS 132-190

NRS 630.3062(1)(b)(2) – Violation of Standards of Practice

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

30. NRS 630.306(1)(b)(2) provides that engaging in any conduct which the Board has determined is a violation of the standards of practice established by regulation of the Board constitutes grounds for initiating disciplinary action.

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31. NAC 630.230(1)(a) provides that it is prohibited professional conduct to falsify records of health care.

32. Respondent, in an effort to conceal her illegal conduct, violated standards of practice pursuant to NRS 306.306(1)(b)(2) and NAC 630.230(1)(a), by falsifying her records of health care for at least fifty-nine (59) patients, for the purpose of concealing the use of Propofol for general anesthesia, conscious sedation or deep sedation at Vida Spa, an unpermitted and unaccredited facility, which is grounds for disciplinary action or denial of licensure.

33. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

COUNTS 191-249

NRS 630.306(1)(p) – Engaging in Unsafe or Unprofessional Conduct

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

35. NRS 630.306(1)(p) provides that engaging in any act that is unsafe or unprofessional conduct in accordance with regulations adopted by the Board constitutes grounds for initiating disciplinary action.

36. NAC 630.230(1)(a) prohibits falsifying records of health care.

37. Respondent falsified medical records for at least fifty-nine (59) patients, for the purpose of concealing the use of Propofol for general anesthesia, conscious sedation or deep sedation at Vida Spa, an unpermitted and unaccredited facility in violation of NRS 630.373(1), which is unsafe and unprofessional conduct.

38. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

COUNT 250

NRS 630.305(1)(e) – Aiding the Unlicensed Practice of Medicine

39. NRS 630.305(1)(e) provides that aiding, assisting, employing or advising, directly or indirectly, any unlicensed person to engage in the practice of medicine contrary to the

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provisions of this chapter or the regulations of the Board constitutes grounds for initiating disciplinary action or denying licensure.

40. Respondent, who performed liposuction and administered Propofol for general anesthesia, conscious sedation or deep sedation at Vida Spa, aided the unlicensed practice of medicine when she allowed Giselle Platfoot, manager of Vida Spa who holds no professional license to practice medicine, to manipulate and diagnose patients who were seeking Liposuction and other procedures at Vida Spa.

41. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

COUNT 251

NRS 630.301(9) – Engaging in Conduct that Brings the Medical Profession into Disrepute

42. NRS 630.301(9) provides that it is grounds for disciplinary action for a physician to engage in conduct that brings the medical profession into disrepute.

43. Respondent falsified medical records for at least fifty-nine (59) patients, for the purpose of concealing the use of Propofol for general anesthesia, conscious sedation or deep sedation at Vida Spa, an unpermitted and unaccredited facility in violation of NRS 630.373(1), which is unsafe and unprofessional conduct.

44. Respondent administered Propofol to at least seventy-two (72) patients all in violation of NRS 630.373.

45. These actions constitute conduct that brings the medical profession into disrepute in violation of NRS 630.301(9).

46. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

WHEREFORE, the Investigative Committee prays:

1. That the Board give Respondent notice of the charges herein against her and give her notice that she 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;

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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 17th day of August, 2021.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

DONALD K. WHITE, J.D.
Deputy General Counsel
9600 Gateway Drive
Reno, NV 89521
Tel: (775) 688-2559
Email: dwhite@medboard.nv.gov
Attorney for the Investigative Committee

VERIFICATION

STATE OF NEVADA)
: ss.
COUNTY OF CLARK)

Victor M. Muro, 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 17th day of August, 2021.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: V M Muro MD
VICTOR M. MURO, M.D.
Chairman of the Investigative Committee

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint

Against:

MARYANNE DEFOREST PHILLIPS, M.D.,

Respondent.

Case No. 21-10032-1

FILED
AUG 19 2021
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By: _____

Hearing Date: August 18, 2021
Time: 9:00 a.m. PST

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

EXHIBIT LIST
FOR HEARING ON ORDER FOR SUMMARY SUSPENSION

EXHIBIT NO.	DESCRIPTION	BATES RANGE (NSBME)	Admitted
1	2019 Settlement Agreement Signed by Respondent	001-010	X
2	Nevada Secretary of State Information for Vida Spa, LLC	011-013	X
3	Clark County Business License Search Results for Vida Spa	014	X
4	March 19, 2021 Allegation Letter to Respondent with Request for Records	015-019	X
5	April 27, 2021 Second Request for Response	020	X
6	May 19, 2021 Respondent's Response via Attorney Lyn Beggs to Allegation Letter	021-027	X
7	January 5, 2021 Dr. Borromeo's Response to Allegation Letter	028	X
8	Black and White Photos of Vida Spa, LLC taken by Kim Friedman June 23, 2021	029-041	X
9	March 24, 2021 Nevada State Board of Pharmacy Cease and Desist Letter to Respondent	042-043	X
10	March 24, 2021 Nevada State Board of Pharmacy Cease and Desist Letter to Giselle Platfoot and Vida Spa, LLC	044-045	X
11	Sedation Log of Vida Spa, LLC retrieved from Vida Spa June 23, 2021	046-049	X

EXHIBIT NO.	DESCRIPTION	BATES RANGE (NSBME)	Admitted
12	Daily Procedures January 1, 2019 to December 14, 2020	050-054	X
13	Medication Log Sheet of Vida Spa, LLC from May 20, 2021 to June 23, 2021	055-069	X
14	License Application Page of Maryanne Phillips	070	X
15	PATIENT B Medical Records	071-090	X
16	PATIENT C Medical Records	091-118	X
17	PATIENT D Medical Records	119-139	X
18	PATIENT E Medical Records	140-168	X
19	PATIENT F Medical Records	169-196	X
20	PATIENT G Medical Records	197-199	X
21	PAITENT H Medical Records	200-226	X
22	PATIENT A Medical Records	227-267	X
23	PATIENT I Medical Records	268-300	X
24	PATIENT J Medical Records	301-332	X
25	PATIENT K Medical Records	333-363	X
26	PATIENT L Medical Records	364-398	X
27	PATIENT M Medical Records	399-434	X
28	PATIENT N Medical Records	435-470	X
29	PATIENT O Medical Records	471-499	X
30	PATIENT P Medical Records	500-532	X
31	PATIENT Q Medical Records	533-562	X

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EXHIBIT NO.	DESCRIPTION	BATES RANGE (NSBME)	Admitted
32	PATIENT R Medical Records	563-598	X
33	PATIENT S Medical Records	599-628	X
34	PATIENT T Medical Records	629-670	X
35	PATIENT U Medical Records	671-699	X
36	PATIENT V Medical Records	700-735	X
37	PATIENT W Medical Records	736-771	X
38	PATIENT X Medical Records	772-806	X
39	PATIENT Y Medical Records	807-844	X
40	PATIENT Z Medical Records	845-871	X
41	PATIENT AA Medical Records	872-903	X
42	PATIENT BB Medical Records	904-932	X
43	PATIENT CC Medical Records	933-960	X
44	PATIENT DD Medical Records	961-996	X
45	PATIENT EE Medical Records	991A-1029	X
46	PATIENT FF Medical Records	1030-1059	X
47	PATIENT GG Medical Records	1060-1094	X
48	July 2, 2021 Nevada Department of Health and Human Services Cease Operation Order to Vida Spa, LLC	1095	X
49	July 2, 2021 Nevada Department of Health and Human Services Notice of Denial of Application to Gisselle Platfoot and Vida Spa, LLC	1096-1098	X
50	July 29, 2021 Clark County Department of Business Temporary Suspension of Business License	1099-1100	X

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Nevada State Board of Medical Examiners
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Reno, Nevada 89521
(775) 688-2559

EXHIBIT NO.	DESCRIPTION	BATES RANGE (NSBME)	Admitted
51	Color Photographs Taken June 23, 2021 by Kim Friedman	1101-1116	X
52	Color Photographs Taken October 27, 2020 by Kim Friedman	1117-1179	X
53	Direct Compounding Pharmacy Records	1180-1226	X
54	McKesson Pharmacy Records Spreadsheet	1227	X
54A	Email from McKesson Pharmacy to Investigator Kim Friedman	2330-2331	X
55	PATIENT HH Medical Records	1228-1259	X
56	PATIENT II Medical Records	1260-1292	X
57	PATIENT JJ Medical Records	1293-1323	X
58	PATIENT KK Medical Records	1324-1353	X
59	PATIENT LL Medical Records	1354-1380	X
60	PATIENT MM Medical Records	1381-1411	X
61	PATIENT NN Medical Records	1412-1440	X
62	PATIENT OO Medical Records	1441-1475	X
63	PATIENT PP Medical Records	1476-1517	X
64	PATIENT QQ Medical Records	1518-1553	X
65	PATIENT RR Medical Records	1554-1582	X
66	PATIENT SS Medical Records	1583-1616	X
67	PATIENT TT Medical Records	1617-1646	X
68	PATIENT UU Medical Records June 8, 2021	1647-1657	X
69	PATIENT UU Medical Records May 5, 2021	1658-1683	X

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Reno, Nevada 89521
(775) 688-2559

EXHIBIT NO.	DESCRIPTION	BATES RANGE (NSBME)	Admitted
70	PATIENT VV Medical Records	1684-1713	X
71	PATIENT WW Medical Records	1714-1743	X
72	PATIENT XX Medical Records	1744-1782	X
73	PATIENT YY Medical Records	1783-1807	X
74	PATIENT ZZ Medical Records	1808-1843	X
75	PATIENT AAA Medical Records	1844-1880	X
76	PATIENT BBB Medical Records	1881-1911	X
77	PATIENT CCC Medical Records	1912-1938	X
78	PATIENT DDD Medical Records	1939-1972	X
79	PATIENT EEE Medical Records	1973-2001	X
80	PATIENT FFF Medical Records	2002-2029	X
81	PATIENT GGG Medical Records	2030-2056	X
82	PATIENT HHH Medical Records	2057-2084	X
83	PATIENT III Medical Records	2085-2114	X
84	PATIENT JJJ Medical Records	2115-2149	X
85	PATIENT KKK Medical Records	2150-2174	X
86	PATIENT LLL Medical Records	2175-2225	X
87	PATIENT MMM Medical Records	2226-2256	X
88	PATIENT NNN Medical Records	2257-2290	X
89	PATIENT OOO Medical Records	2291-2320	X

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EXHIBIT NO.	DESCRIPTION	BATES RANGE (NSBME)	Admitted
90	Subpoena for Records to Vida Spa, LLC and Affidavit of Service of Subpoena	2321-2329	X
91	Letter from Lyn Beggs, Esq. to Nevada State Board of Medical Examiners Regarding Withdrawal of Representation	2332	X
92	Facebook Video of Giselle Platfoot and Maryanne Phillips Promoting Liposuction Procedures	2333	X
93	Facebook Video of Maryanne Phillips Performing Chin Liposuction Procedure	2334	X
94	Facebook Video of Maryanne Phillips Assisting Clean Up of a Patient after Chin Liposuction Procedure	2335	X
95	Facebook Video of an Unknown Employee and Maryanne Phillips Promoting Liposuction With or Without Sedation	2336	X

Dated this 19th day of August, 2021.

INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

DONALD K. WHITE, J.D.
9600 Gateway Drive
Reno, Nevada 89521
Tel: (775) 688-2559
Email: dwhite@medboard.nv.gov

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

MEDICAL RECORDS

This exhibit contains personal medical information, records of a patient or other personal identifying information that is confidential and otherwise protected from disclosure to the public pursuant to NRS 622.310.

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: MARYANNE DEFOREST PHILLIPS, M.D., Respondent.	Case No. 21-10032-1

FILED
SEP 13 2021
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By: _____

RESPONDENT, MARYANNE DEFOREST PHILLIPS, M.D.'S RESPONSE TO COMPLAINT

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BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: MARYANNE DEFOREST PHILLIPS, M.D., Respondent.	Case No. 21-10032-1

FILED
AUG 17 2021
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By: [signature]

COMPLAINT

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

1. Respondent was at all times relevant to this Complaint, a medical doctor holding an active license to practice medicine in the State of Nevada (License No. 7635). Respondent was originally licensed by the Board on December 21, 1995.

2. Respondent does not have a license to prescribe controlled substances issued by the Nevada State Board of Pharmacy (NSBOP).

3. Respondent is not registered with the U.S. Drug Enforcement Agency (DEA) to prescribe controlled substances.

4. Vida Spa LLC, is a Nevada limited liability company, formed on July 22, 2016, and managed by Gisselle Platfoot, also doing business as "Vida Spa" and "Vita Medical Spa Las

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[1] The Investigative Committee of the Nevada State Board of Medical Examiners at the time the Summary Suspension in this matter was authorized, consisted of Board members Victor M. Muro, M.D., Chair, Weldon Havins, M.D., J.D., and Ms. Maggie Arias-Petrel. Pursuant to NRS 630.326, a formal Complaint must be pending at the time of the summary suspension hearing in order to continue the suspension of the Respondent.

Vegas." Vida Spa is a self-described "medical spa" located 3225 S. Rainbow Blvd #107 and/or #206, Las Vegas, Nevada 89146. (Collectively, "Vida Spa").

5. Vida Spa is, and was at all times relevant to this complaint, licensed in Clark County, Nevada, under Clark County Business License No. 2003447.081-172, under the business category of "Cosmetology Establishment - Other Services." The owners listed under this license are Art Matrix, Inc. and Gisselle Platfoot. unknown to Dr. P.

6. Gisselle Platfoot, Manager of Vida Spa, did not, at all times relevant to this Complaint, hold a license to practice any healing art as a "provider of health care," defined in NRS 629.031, from any occupational licensing board in the State of Nevada.

7. Vida Spa is "a facility that provides health care, other than a medical facility". *See* NRS 449.442. Neither Respondent, Vida Spa, nor Gisselle Platfoot held, or currently holds, the requisite permit, pursuant to NRS 449.442, to perform general anesthesia, conscious sedation or deep sedation at Vida Spa. Additionally, neither Respondent, Vida Spa, nor Gisselle Platfoot hold a current accreditation by a national recognized organization approved by the Nevada State Board of Health (BOH) to perform general anesthesia, conscious sedation or deep sedation at Vida Spa. Gisselle Platfoot stated that sedation was part of the spa's credentials.

no general anesthesia was ever performed in Dr. Phillips presence.

8. On March 24, 2021, the NSBOP issued two (2) separate Citations and Orders to Cease and Desist, to Respondent, Vida Spa and Gisselle Platfoot, respectively, whereby the NSBOP separately determined that Respondent, Vida Spa and Gisselle Platfoot were possessing administering, prescribing and/or dispensing controlled substances and/or dangerous drugs for Nevada patients from Vida Spa, in violation of state and federal law.

9. The NSBOP's Citation to Respondent states that Respondent is possessing, administering, prescribing and/or dispensing controlled substances and dangerous drugs for Nevada patients from her practice in violation of federal and state law.

10. Specifically, this citation notes that her controlled substance registration was suspended, and that she is prohibited from possessing and/or administering controlled substances.

11. The NSBOP determined in this citation that Respondent has violated, attempted to violate, assisted or abetted in the violation of or conspired to violate, without limitation,

NRS 453.226, NRS 453.316, NRS 453.321(1)(a), NRS 453.331(1)(c),(d),(f) & (i), NRS 453.381(1), NRS 453.401(1)(a), NRS 639.100(1), NRS 639.23505, NRS 639.281, NRS 639.2813, NRS 639.310, 21 U.S.C. § 822(a)(2), 21 U.S.C. § 823(f), 21 U.S.C. § 841(a), 21 U.S.C. § 842(a), 21 U.S.C. § 846 and 21 CFR §§ 1306.03–1306.05.

12. The Citation ordered Respondent to immediately Cease and Desist possessing, administering, prescribing and/or dispensing controlled substances for Nevada patients from her practice, and also assessed an administrative fine of five thousand dollars ($5,000.00).

13. In addition to the violations of various state and federal laws pertaining to the possessing, dispensing, and/or administering controlled substances and/or dangerous drugs that are the subject of the NSBOP citations, between the dates of on or about April 13, 2021, to on or about June 23, 2021, Respondent performed invasive surgical procedures, such as liposuction and fat grafting, at Vida Spa.

14. As stated above, Vida Spa is not an accredited surgical facility and does not have a permit and has never obtained a permit from the BOH to offer the service of general anesthesia, conscious sedation or deep sedation to patients, pursuant to NRS 449.442(1).

false

15. Between, on or about April 13, 2021 and on or about June 23, 2021, Respondent administered Propofol for the purposes of general anesthesia, conscious sedation or deep sedation for the aforementioned invasive surgical procedures, at least seventy-two (72) times to at least seventy-two (72) individual patients, all in violation of NRS 630.373, which provides in pertinent part, that, in the State of Nevada, a physician shall not administer or supervise directly the administration of general anesthesia, conscious sedation or deep sedation to patients unless the general anesthesia, conscious sedation or deep sedation is administered:

a. In an office of a physician or osteopathic physician which holds a permit pursuant to NRS 449.435 to 449.448, inclusive;

b. In a facility which holds a permit pursuant to NRS 449.435 to 449.448, inclusive; and

c. In a medical facility as that term is defined in NRS 449.0151.

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16. Neither Vida Spa nor its proprietors hold any such permits issued by the BOH, and Vida Spa is not a medical facility as defined by ~~NRS 449.0151~~. false

17. Respondent, in an effort to conceal her illegal conduct, violated NRS 630.3062(1)(a) by falsifying her health care records for all fifty-nine (59) patients by failing to note that she had administered Propofol, in an attempt to conceal the fact that Propofol was being administered for the purpose of general anesthesia, conscious sedation or deep sedation at an unpermitted and unaccredited facility, in violation of NRS 630.373.

false did not chart on anything except discharge note and incision & drug records

18. Because Respondent omitted information from the health care records for all fifty-nine (59) patients, these records were not timely, accurate, legible, or complete in violation of NRS 630.3062(1)(a).

19. Respondent violated the standards of practice pursuant to NRS 630.306(1)(b)(2) and NAC 630.230(1)(a), by falsifying her patients' records of health care, which is grounds for disciplinary action in each of the fifty-nine (59) instances.

20. Respondent further violated NRS 630.306(1)(p), which provides that engaging in any act that is considered unsafe or unprofessional conduct, in accordance with regulations adopted by the Board, constitutes grounds for initiating disciplinary action, when she falsified medical records for the purpose of concealing the use of Propofol for general anesthesia, conscious sedation or deep sedation at Vida Spa, an unpermitted and unaccredited facility in violation of NRS 630.373(1), which is unsafe and unprofessional conduct, in each of the fifty-nine (59) instances.

COUNTS 1-72

NRS 630.373 – Administering General Anesthesia, Conscious Sedation, or Deep Sedation at an Unaccredited Location

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

22. NRS 630.373 provides in pertinent part that, [a] physician shall not administer or supervise directly the administration of general anesthesia, conscious sedation or deep sedation to patients unless the general anesthesia, conscious sedation or deep sedation is administered: (a) In

an office of a physician or osteopathic physician which holds a permit pursuant to NRS 449.435 to 449.448, inclusive; (b) In a facility which holds a permit pursuant to NRS 449.435 to 449.448, inclusive, and (c) in a medical facility as that term is defined in NRS 449.0151.

RN's - certified

false

23. Respondent administered Propofol to at least seventy-two (72) patients all in violation of NRS 630.373. Dr. P. never gave propofol since 1 year ago → June of 2020

24. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352. To Dr. Borr. neos cos

COUNTS 73-131

I didnt fill out the records except discharge summary & inc.

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

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

26. NRS 630.3062(1)(a) provides that it is grounds for disciplinary action to fail to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

27. Respondent, in an effort to conceal her illegal conduct, violated NRS 630.3062(1)(a), when she falsified the medical records of at least fifty-nine (59) patients for the purpose of concealing the use of Propofol for general anesthesia, conscious sedation or deep sedation at Vida Spa, an unpermitted and unaccredited facility.

I didnt falsify anything I only wrote a note & gave notes to RN's who gave all meds.

28. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

COUNTS 132-190

NRS 630.3062(1)(b)(2) – Violation of Standards of Practice

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

30. NRS 630.306(1)(b)(2) provides that engaging in any conduct which the Board has determined is a violation of the standards of practice established by regulation of the Board constitutes grounds for initiating disciplinary action.

/// All medicines except lidocaine local anesthesia were administered by RN's that I was told were certified to give any medication

Dr. P never had any records false

31. NAC 630.230(1)(a) provides that it is prohibited professional conduct to falsify records of health care. all records were written by RN who gave meds

32. Respondent, in an effort to conceal her illegal conduct, violated standards of practice pursuant to NRS 306.306(1)(b)(2) and NAC 630.230(1)(a), by falsifying her records of health care for at least fifty-nine (59) patients, for the purpose of concealing the use of Propofol for general anesthesia, conscious sedation or deep sedation at Vida Spa, an unpermitted and unaccredited facility, which is grounds for disciplinary action or denial of licensure.

33. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

COUNTS 191-249

NRS 630.306(1)(p) – Engaging in Unsafe or Unprofessional Conduct

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

35. NRS 630.306(1)(p) provides that engaging in any act that is unsafe or unprofessional conduct in accordance with regulations adopted by the Board constitutes grounds for initiating disciplinary action.

36. NAC 630.230(1)(a) prohibits falsifying records of health care.

37. Respondent falsified medical records for at least fifty-nine (59) patients, for the purpose of concealing the use of Propofol for general anesthesia, conscious sedation or deep sedation at Vida Spa, an unpermitted and unaccredited facility in violation of NRS 630.373(1), which is unsafe and unprofessional conduct.

38. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

COUNT 250

NRS 630.305(1)(e) – Aiding the Unlicensed Practice of Medicine

39. NRS 630.305(1)(e) provides that aiding, assisting, employing or advising, directly or indirectly, any unlicensed person to engage in the practice of medicine contrary to the

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provisions of this chapter or the regulations of the Board constitutes grounds for initiating disciplinary action or denying licensure.

Impossible to do both lipo propofol

40. Respondent, who performed liposuction and administered Propofol for general anesthesia, conscious sedation or deep sedation at Vida Spa, aided the unlicensed practice of medicine when she allowed Giselle Platfoot, manager of Vida Spa who holds no professional license to practice medicine, to manipulate and diagnose patients who were seeking Liposuction and other procedures at Vida Spa.

41. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

COUNT 251

NRS 630.301(9) – Engaging in Conduct that Brings the Medical Profession into Disrepute

42. NRS 630.301(9) provides that it is grounds for disciplinary action for a physician to engage in conduct that brings the medical profession into disrepute.

never general anes

43. Respondent falsified medical records for at least fifty-nine (59) patients, for the purpose of concealing the use of Propofol for general anesthesia, conscious sedation or deep sedation at Vida Spa, an unpermitted and unaccredited facility in violation of NRS 630.373(1), which is unsafe and unprofessional conduct.

RNs certified to give sedation?

false

44. Respondent administered Propofol to at least seventy-two (72) patients all in violation of NRS 630.373.

45. These actions constitute conduct that brings the medical profession into disrepute in violation of NRS 630.301(9).

46. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

WHEREFORE, the Investigative Committee prays:

1. That the Board give Respondent notice of the charges herein against her and give her notice that she 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;

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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 17th day of August, 2021.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

DONALD K. WHITE, J.D.
Deputy General Counsel
9600 Gateway Drive
Reno, NV 89521
Tel: (775) 688-2559
Email: dwhite@medboard.nv.gov
Attorney for the Investigative Committee

VERIFICATION

STATE OF NEVADA)
: ss.
COUNTY OF CLARK)

Victor M. Muro, 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 17th day of August, 2021.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____
VICTOR M. MURO, M.D.
Chairman of the Investigative Committee

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 17th day of August, 2021.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

DONALD K. WHITE, J.D.
Deputy General Counsel
9600 Gateway Drive
Reno, NV 89521
Tel: (775) 688-2559
Email: dwhite@medboard.nv.gov
Attorney for the Investigative Committee

Dr. P was in contact at all times re: spa implications & when advised by L. Beggs counsel at that time she quit. she finished only the class in liposuction office Liposuction which was Lidocaine Tumescence & epinephrine. No Narcotics

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **MARYANNE DEFOREST PHILLIPS, M.D.,** **Respondent.**	**Case No. 21-10032-1** FILED SEP 16 2021 NEVADA STATE BOARD OF MEDICAL EXAMINERS By:

FIRST AMENDED COMPLAINT

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

1. Respondent was at all times relevant to this Complaint, a medical doctor holding an active license to practice medicine in the State of Nevada (License No. 7635). Respondent was originally licensed by the Board on December 21, 1995.

2. Respondent does not have a license to prescribe controlled substances issued by the Nevada State Board of Pharmacy (NSBOP).

3. Respondent is not registered with the U.S. Drug Enforcement Agency (DEA) to prescribe controlled substances.

4. Vida Spa LLC, is a Nevada limited liability company, formed on July 22, 2016, and managed by Gisselle Platfoot, also doing business as "Vida Spa" and "Vita Medical Spa Las

[1] The Investigative Committee of the Nevada State Board of Medical Examiners at the time the Summary Suspension in this matter was authorized, consisted of Board members Victor M. Muro, M.D., Chairman, Weldon Havins, M.D., J.D., and Ms. Maggie Arias-Petrel.

Vegas." Vida Spa is a self-described "medical spa" located 3225 S. Rainbow Blvd #107 and/or #206, Las Vegas, Nevada 89146. (Collectively, "Vida Spa").

5. Vida Spa is, and was at all times relevant to this complaint, licensed in Clark County, Nevada, under Clark County Business License No. 2003447.081-172, under the business category of "Cosmetology Establishment - Other Services." The owners listed under this license are Art Matrix, Inc. and Gisselle Platfoot.

6. Gisselle Platfoot, Manager of Vida Spa, did not, at all times relevant to this Complaint, hold a license to practice any healing art as a "provider of health care," defined in NRS 629.031, from any occupational licensing board in the State of Nevada.

7. Vida Spa is "a facility that provides health care, other than a medical facility". *See* NRS 449.442. Neither Respondent, Vida Spa, nor Gisselle Platfoot held, or currently holds, the requisite permit, pursuant to NRS 449.442, to perform general anesthesia, conscious sedation or deep sedation at Vida Spa. Additionally, neither Respondent, Vida Spa, nor Gisselle Platfoot hold a current accreditation by a nationally recognized organization approved by the Nevada State Board of Health (BOH) to perform general anesthesia, conscious sedation or deep sedation at Vida Spa.

8. On March 24, 2021, the NSBOP issued two (2) separate Citations and Orders to Cease and Desist, to Respondent, Vida Spa and Gisselle Platfoot, respectively, whereby the NSBOP separately determined that Respondent, Vida Spa and Gisselle Platfoot were possessing administering, prescribing and/or dispensing controlled substances and/or dangerous drugs for Nevada patients from Vida Spa, in violation of state and federal law.

9. The NSBOP's Citation to Respondent states that Respondent is possessing, administering, prescribing and/or dispensing controlled substances and dangerous drugs for Nevada patients from her practice in violation of federal and state law.

10. Specifically, this citation notes that her controlled substance registration was suspended, and that she is prohibited from possessing and/or administering controlled substances.

11. The NSBOP determined in this citation that Respondent has violated, attempted to violate, assisted or abetted in the violation of or conspired to violate, without limitation,

NRS 453.226, NRS 453.316, NRS 453.321(1)(a), NRS 453.331(1)(c),(d),(f) & (i), NRS 453.381(1), NRS 453.401(1)(a), NRS 639.100(1), NRS 639.23505, NRS 639.281, NRS 639.2813, NRS 639.310, 21 U.S.C. § 822(a)(2), 21 U.S.C. § 823(f), 21 U.S.C. § 841(a), 21 U.S.C. § 842(a), 21 U.S.C. § 846 and 21 CFR §§ 1306.03–1306.05.

12. The Citation ordered Respondent to immediately Cease and Desist possessing, administering, prescribing and/or dispensing controlled substances for Nevada patients from her practice, and also assessed an administrative fine of five thousand dollars ($5,000.00).

13. In addition to the violations of various state and federal laws pertaining to the possessing, dispensing, and/or administering controlled substances and/or dangerous drugs that are the subject of the NSBOP citations, between the dates of (on or about) April 13, 2021, to (on or about) June 23, 2021, Respondent performed invasive surgical procedures, such as liposuction and fat grafting, at Vida Spa.

14. As stated above, Vida Spa is not an accredited surgical facility, does not have a permit and has never obtained a permit from the BOH to offer services of general anesthesia, conscious sedation or deep sedation to patients, pursuant to NRS 449.442(1).

15. On or about April 13, 2021 through, approximately, June 23, 2021, Respondent administered Propofol for the purposes of general anesthesia, conscious sedation or deep sedation for the aforementioned invasive surgical procedures, at least seventy-two (72) times to at least seventy-one (71) individual patients, all in violation of NRS 630.373, which provides in pertinent part, that, in the State of Nevada, a physician shall not administer or supervise directly the administration of general anesthesia, conscious sedation or deep sedation to patients unless the general anesthesia, conscious sedation or deep sedation is administered:

a. In an office of a physician or osteopathic physician which holds a permit pursuant to NRS 449.435 to 449.448, inclusive;

b. In a facility which holds a permit pursuant to NRS 449.435 to 449.448, inclusive; and

c. In a medical facility as that term is defined in NRS 449.0151.

///

16. Neither Vida Spa nor its proprietors hold any such permits issued by the BOH, and Vida Spa is not a medical facility as defined by NRS 449.0151.

17. Respondent, in an effort to conceal her illegal conduct, violated NRS 630.3062(1)(a) by falsifying her health care records for at least sixty-one (61) patients of the seventy-one (71) treated by failing to note that she had administered Propofol, in an attempt to conceal the fact that Propofol was being administered for the purpose of general anesthesia, conscious sedation or deep sedation at an unpermitted and unaccredited facility, in violation of NRS 630.373.

18. Respondent omitted information from the health care records for at least sixty-one (61) patients causing these records to be untimely, inaccurate, illegible, or incomplete in violation of NRS 630.3062(1)(a).

19. Respondent violated the standards of practice pursuant to NRS 630.306(1)(b)(2) and NAC 630.230(1)(a), by falsifying her patients' records of health care, which is grounds for disciplinary action in each of the sixty-one (61) instances.

20. Respondent further violated NRS 630.306(1)(p), which provides that engaging in any act that is considered unsafe or unprofessional conduct, in accordance with regulations adopted by the Board, constitutes grounds for initiating disciplinary action, when she falsified medical records for the purpose of concealing the use of Propofol for general anesthesia, conscious sedation or deep sedation at Vida Spa, an unpermitted and unaccredited facility in violation of NRS 630.373(1), which is unsafe and unprofessional conduct, in each of the sixty-one (61) instances.

COUNTS 1-71

PATIENTS A - SSS

NRS 630.373 – Administering General Anesthesia, Conscious Sedation, or Deep Sedation at an Unaccredited Location

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

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22. NRS 630.373 provides in pertinent part that:

> [a] physician shall not administer or supervise directly the administration of general anesthesia, conscious sedation or deep sedation to patients unless the general anesthesia, conscious sedation or deep sedation is administered: (a) In an office of a physician or osteopathic physician which holds a permit pursuant to NRS 449.435 to 449.448, inclusive; (b) In a facility which holds a permit pursuant to NRS 449.435 to 449.448, inclusive, and (c) in a medical facility as that term is defined in NRS 449.0151.

23. Respondent administered Propofol to at least seventy-one (71) patients each in violation of NRS 630.373.

24. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

COUNTS 72-132

PATIENTS A - III

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

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

26. Violation of NRS 630.3062(1)(a) is grounds for disciplinary action to fail to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

27. Respondent, in an effort to conceal her illegal conduct, violated NRS 630.3062(1)(a), when she falsified the medical records of at least sixty-one (61) patients for the purpose of concealing the use of Propofol for general anesthesia, conscious sedation or deep sedation at Vida Spa, an unpermitted and unaccredited facility.

28. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

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COUNTS 133-193

PATIENTS A - III

NRS 630.306(1)(b)(2) – Violation of Standards of Practice

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

30. NRS 630.306(1)(b)(2) provides that engaging in any conduct which the Board has determined is a violation of the standards of practice established by regulation of the Board constitutes grounds for initiating disciplinary action.

31. NAC 630.230(1)(a) provides that it is prohibited professional conduct to falsify records of health care.

32. Respondent, in an effort to conceal her illegal conduct, violated standards of practice pursuant to NRS 306.306(1)(b)(2) and NAC 630.230(1)(a), by falsifying her records of health care for at least sixty-one (61) patients, for the purpose of concealing the use of Propofol for general anesthesia, conscious sedation or deep sedation at Vida Spa, an unpermitted and unaccredited facility, which is grounds for disciplinary action or denial of licensure.

33. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

COUNTS 194-254

PATIENTS A - III

NRS 630.306(1)(p) – Engaging in Unsafe or Unprofessional Conduct

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

35. NRS 630.306(1)(p) provides that engaging in any act that is unsafe or unprofessional conduct in accordance with regulations adopted by the Board constitutes grounds for initiating disciplinary action.

36. NAC 630.230(1)(a) prohibits falsifying records of health care.

37. Respondent falsified medical records for at least sixty-one (61) patients, for the purpose of concealing the use of Propofol for general anesthesia, conscious sedation or deep

sedation at Vida Spa, an unpermitted and unaccredited facility in violation of NRS 630.373(1), which is unsafe and unprofessional conduct.

38. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

COUNT 255

NRS 630.305(1)(e) – Aiding the Unlicensed Practice of Medicine

39. NRS 630.305(1)(e) provides that aiding, assisting, employing or advising, directly or indirectly, any unlicensed person to engage in the practice of medicine contrary to the provisions of this chapter or the regulations of the Board constitutes grounds for initiating disciplinary action or denying licensure.

40. Respondent, who performed liposuction and administered Propofol for general anesthesia, conscious sedation or deep sedation at Vida Spa, aided the unlicensed practice of medicine when she allowed Giselle Platfoot, Manager of Vida Spa, who holds no professional license to practice medicine, to manipulate and diagnose patients who were seeking Liposuction and other medical procedures at Vida Spa.

41. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

COUNT 256

NRS 630.301(9) – Engaging in Conduct that Brings the Medical Profession into Disrepute

42. NRS 630.301(9) provides that it is grounds for disciplinary action for a physician to engage in conduct that brings the medical profession into disrepute.

43. Respondent falsified medical records for at least sixty-one (61) patients, for the purpose of concealing the use of Propofol for general anesthesia, conscious sedation or deep sedation at Vida Spa, an unpermitted and unaccredited facility in violation of NRS 630.373(1), which is unsafe and unprofessional conduct.

44. Respondent administered Propofol to at least seventy-one (71) patients all in violation of NRS 630.373.

/ / /

45. These actions constitute conduct that brings the medical profession into disrepute in violation of NRS 630.301(9).

46. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

WHEREFORE, the Investigative Committee prays:

1. That the Board give Respondent notice of the charges herein against her and give her notice that she 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 16th day of September, 2021.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

DONALD K. WHITE, J.D.
Deputy General Counsel
9600 Gateway Drive
Reno, NV 89521
Tel: (775) 688-2559
Email: dwhite@medboard.nv.gov
Attorney for the Investigative Committee

VERIFICATION

STATE OF NEVADA)
: ss.
COUNTY OF CLARK)

Victor M. Muro, 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 First Amended 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 16th day of September, 2021.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: V M Muro MD
VICTOR M. MURO, M.D.
Chairman of the Investigative Committee

MEDICAL RECORDS

This exhibit contains personal medical information, records of a patient or other personal identifying information that is confidential and otherwise protected from disclosure to the public pursuant to NRS 622.310.

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **MARYANNE DEFOREST PHILLIPS, M.D.,** **Respondent.**	**Case No. 21-10032-1**

FILED
SEP 27 2021
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By: _____

PROOF OF SERVICE

I, Meg Byrd, Legal Assistant for the Nevada State Board of Medical Examiners, hereby certify that on September 3, 2021, I mailed by USPS Certified Mail No. 9171969009350252156392 to the following recipient(s):

Maryanne DeForest Phillips, M.D.
2121 E Flamingo Rd. #112
Las Vegas, NV 89119

the Complaint filed August 17, 2021. The complaint was successfully delivered to the above address on September 7, 2021, *See* **Exhibit 1**.

DATED this 27th day of September, 2021.

MEG BYRD, Legal Assistant
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, Nevada 89521

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

EXHIBIT 1

USPS Tracking®

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Tracking Number: 9171969009350252156392

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Your item was delivered to the front desk, reception area, or mail room at 2:22 pm on September 7, 2021 in LAS VEGAS, NV 89119.

Delivered, Front Desk/Reception/Mail Room

September 7, 2021 at 2:22 pm
LAS VEGAS, NV 89119

Feedback

Text & Email Updates

Tracking History

September 7, 2021, 2:22 pm
Delivered, Front Desk/Reception/Mail Room
LAS VEGAS, NV 89119
Your item was delivered to the front desk, reception area, or mail room at 2:22 pm on September 7, 2021 in LAS VEGAS, NV 89119.

September 7, 2021, 6:10 am
Out for Delivery
LAS VEGAS, NV 89119

September 6, 2021, 10:50 am
Arrived at Hub

LAS VEGAS, NV 89119

September 5, 2021
In Transit to Next Facility

September 4, 2021, 10:52 pm
Departed USPS Regional Facility
LAS VEGAS NV DISTRIBUTION CENTER

September 4, 2021, 4:18 pm
Arrived at USPS Regional Facility
LAS VEGAS NV DISTRIBUTION CENTER

September 3, 2021, 10:44 pm
Arrived at USPS Regional Facility
RENO NV DISTRIBUTION CENTER

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FAQs

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **MARYANNE DEFOREST PHILLIPS, M.D.,** **Respondent.**	**Case No. 21-10032-1**

FILED
SEP 27 2021
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

PROOF OF SERVICE

I, Meg Byrd, Legal Assistant for the Nevada State Board of Medical Examiners, hereby certify that on September 16, 2021, I mailed by USPS Certified Mail No. 9171969009350252156538 to the following recipient(s):

Maryanne DeForest Phillips, M.D.
10620 Southern Highlands Pkwy, #250
Las Vegas, NV 89141

the FIRST AMENDED COMPLAINT filed September 16, 2021. The document was successfully delivered on or about September 20, 2021, *See* **Exhibit 1**.

DATED this 27th day of September, 2021.

MEG BYRD, Legal Assistant
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, Nevada 89521

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

EXHIBIT 1

USPS Tracking®

FAQs >

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Remove X

Tracking Number: 9171969009350252156538

Your item was delivered to the front desk, reception area, or mail room at 10:16 am on September 20, 2021 in LAS VEGAS, NV 89141.

Delivered, Front Desk/Reception/Mail Room

September 20, 2021 at 10:16 am
LAS VEGAS, NV 89141

Feedback

Text & Email Updates

Tracking History

September 20, 2021, 10:16 am
Delivered, Front Desk/Reception/Mail Room
LAS VEGAS, NV 89141
Your item was delivered to the front desk, reception area, or mail room at 10:16 am on September 20, 2021 in LAS VEGAS, NV 89141.

September 19, 2021, 5:07 pm
Departed USPS Regional Facility
LAS VEGAS NV DISTRIBUTION CENTER

September 18, 2021
In Transit to Next Facility

September 17, 2021, 6:43 pm
Arrived at USPS Regional Facility
LAS VEGAS NV DISTRIBUTION CENTER

September 16, 2021, 10:34 pm
Arrived at USPS Regional Origin Facility
RENO NV DISTRIBUTION CENTER

September 16, 2021, 5:50 pm
Departed Post Office
RENO, NV 89510

September 16, 2021, 5:46 pm
Acceptance
RENO, NV 89510

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FAQs

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Investigation of MARYANNE DEFOREST PHILLIPS, M.D. License No. 7635	**CASE NO.: 21-10032-1**

FILED
NOV 24 2021
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

ORDER AFTER HEARING CONTINUING SUSPENSION

This matter came on for hearing on 18 August, 2021, at the Northern Nevada office of the Board of Medical Examiners of the State of Nevada (the "Board"). Appearing on behalf of the Investigative Committee ("IC") of the Board was Donald K White, Esq. Despite being properly served with notice of the hearing, Respondent Dr. Maryanne D. Phillips, M.D., did not appear either at the Northern Nevada or Southern Nevada office of the Board.

The Board summarily suspended Respondent's license to practice medicine on June 28, 2021, pursuant to and in accordance with Nevada Revised Statutes ("NRS") 630.326(1). This hearing was held within sixty (60) days following that Summary Suspension pursuant to and in accordance with NRS 630.326(2). Three witnesses testified on behalf of the IC: Kimberly Friedman; Patient A, and; Margaret F. Byrd. (Ms. Friedman was recalled to testify further after Ms. Byrd's testimony.) The following evidence was adduced at the hearing, none of which was contested:

FACTUAL FINDINGS

Dr. Phillips is subject to an existing Settlement Agreement with the Board dated June 10, 2019 (Exhibit ("Ex.") 1). Pursuant to the Agreement, Dr. Phillips is presently on probationary status;

Giselle Platfoot owns Vida Spa, LLC, which operates within Clark County, Nevada (Transcript, ("T.") 24-25, Ex. 2);

The IC sent two allegation letters, including an Order To Produce Records to Dr. Phillips (T. 26-27, Ex. 4, 5);

Dr. Phillips was initially represented by Lyn Beggs, Esq. (Ex. 6). However, Ms. Beggs ultimately terminated representation of Dr. Phillips well before the formal hearing;

In its own separate investigation, the Nevada State Board of Pharmacy received information, which it shared with the IC, that Dr. Phillips was administering controlled substances to patients of Vida Spa (Ex. 7). The Pharmacy Board ordered Dr. Phillips and Vida Spa to cease all such administration due to Dr. Phillips' suspended status (Ex. 9, 10). Dr. Phillips was ordering controlled substances and using those substances to sedate the patients of Vida Spa on a routine and regular basis, albeit many of the records of such only identify Dr. Phillips by the abbreviation "PH" (T. 33-39, Ex. 11-47, 53-90);

On July 2, 2021, the Nevada State Department of Health and Human Services issued an order to Vida Spa and Dr. Phillips to cease and desist operations of their unpermitted outpatient facility (Ex. 48). On the same day, the Nevada State Department of Health and Human Services denied Vida Spa's application to operate an outpatient facility due to inappropriate procedures and reporting inconsistent with the Department's findings in its investigation (Ex. 49). Clark County suspended Vida Spa's business license on July 29, 2021 (Ex. 50);

On or about May 20, 2021, Patient A presented at Vida Spa for a fat transfer as part of a "Lipo 360", and/or "Brazilian butt lift" procedure (T. 56-59). Patient A had learned of Vida Spa on her social media news feed (T. 60). Vida Spa's pricing was significantly less than what Patient A had seen from other providers for a similar procedure (T. 60-61). Patient A paid Vida Spa a total of $6,500.00 for the procedure (T. 62-63). In her initial consultations, Patient A was not advised that the procedure would require incisions from which a cannula would be inserted to remove fat from her body (T. 64-65). Patient A's initial consultation was with Vida Spa owner Giselle Platfoot. Patient A was not seen by a nurse, by Dr. Phillips, or by anyone other than Ms. Platfoot at that time (T. 64-67). Vida Spa attempted to reschedule Patient A's procedure due to the unavailability of the doctor, but ultimately moved the appointment back

to 5:30 p.m. on the same date, which Vida Spa said was a normal time (T. 67-71);

Just prior to her surgery, Patient A received from Vida Spa and filled out and signed a "Consent for Surgery and Procedures" form (Ex. 22, T. 73-74). At no time prior to that had Patient A ever seen the Consent form (T. 74). Patient A felt that she should have received the Consent forms in advance so she could take them home with time to review and consider them (T. 77). The room where the procedure was being performed did not appear to Patient A to be what she expected, and the appearance of the room scared Patient A (T. 74-76). Patient A was concerned that, at no time from her first visit to Vida Spa until just before her procedure did anyone from Vida Spa explain to her how the procedure would take place and what was involved (T. 77-78). The overall experience at the time of her procedure left Patient A feeling very uncomfortable and fearful (T. 79);

Patient A met Dr. Phillips for the first time just prior to her procedure (T. 79-80). Patient A felt that Dr. Phillips was trying to "sell" her on additional procedures just before her fat transfer procedure (T. 82-83). Dr. Phillips did not mention to Patient A that she would be sedated, and/or that Propofol would be used in the sedation (T. 84). Patient A was never asked if she had any negative history with Propofol (T. 85). Patient A woke up in pain prior to conclusion of the procedure and heard Dr. Phillips tell her assistant to "give her more" (T. 86). Just prior to her procedure, Dr. Phillips asked Patient A if she "wanted the fat transferred anywhere else", and Patient A decided to have some fat transferred to her breasts (T. 87-89);

After the procedure ended, Patient A was in "intense" pain (T. 90). During her recovery, Dr. Phillips and/or her assistant walked Patient A to the restroom, and at the door, they "they let me pretty much go", despite the fact that Patient A was still "very, very dizzy", and as Patient A grabbed onto the sink, she thought she was going to pass out, and almost fell back, when the nurse "grabbed [her] hand", and "had she not grabbed my hand, I would have fell so hard, so hard, because - - with all my weight, just flying back" (T. 89-90);

Immediately after the restroom incident Patient A was placed in a wheelchair and left for home. At that time, only Dr. Phillips and her assistant remained in the Vida Spa facility, which was otherwise dark and locked (T. 91-93). However, after being wheeled out of the

room where the procedure occurred, Patient A did not see Dr. Phillips at all (T. 93). "The assistant gave my best friend the aftercare of what, pretty much on the paperwork, of everything I needed to be eating, down to, really, when was supposed to walk, down to my compression socks, told me -- this is what I remember, as I was getting -- climbing -- and I went down an elevator" (T. 93). Patient A described her aftercare instruction as follows: "As I was climbing in, I remember the assistant saying your butt is going to be a little swollen, but it's going to get a little bit bigger, and then you're going to see it drop, so don't be concerned of that. But that's all that was said. It was nothing of -- it was more like a 'here you go', and that was it" (T. 92-93). All aftercare prescriptions were provided to Patient A's friend in a sealed bag. Those prescriptions included Elavil, Ibuprofen 800 milligram tablets, Moxifloxacin, and Clindamycin (Ex. 22, T. 94-96);

Patient A identified Dr. Phillips as well as Giselle Platfoot via a video shown by counsel for the IC (T. 97). At the time of the hearing, Patient A still has painful lumps post-surgery. She was advised that she'd need ten massages and afterward she'd "be perfect", but she has had some thirty massages and she's still going once or twice per week "depending on how bad I am that week." Patient A's pain is still "horrible" and is accompanied by cramps. (T. 101-102);

The drains were not removed from Patient A until seven days post-procedure despite the massage therapist at Vida Spa saying they were ready for removal at four days (T. 103-104). Patient A testified that she is "100 percent dissatisfied" with Vida Spa, and regrets ever going there, and that "they don't give you the comfort or talk to you or provide what you need to heal or prepare, they just give you a piece of paper and they collect your money. That's all" (T. 104). Patient A was told, presumably by Vida Spa personnel, that she should have been up, walking on her own the day after her procedure, however she needed help getting to the bathroom for four or five days afterward (T. 104-105);

Patient A only met and spoke with Dr. Phillips on the day of her procedure. She had no follow up with Dr. Phillips afterward (T. 105). As of the date of the hearing, Patient A continues to have to wear her post-procedure undergarments to help with her ongoing pain (T.

105-106). Despite having been previously advised that Vida Spa would provide the post-procedure clothing, Patient A was told by Vida Spa personnel just prior to her procedure that she would have to obtain it, as Vida Spa did not have it, requiring Patient A to send her friend and daughter to obtain that from a supplier (Ex. 22, T. 106-110);

In the IC's inspections of Vida Spa's facilities, it was discovered that Vida Spa, a business holding only a license for cosmetology, was performing surgical procedures, and consistent therewith was performing sedation (Ex. 51, T. 121-132). The inspections revealed prescription bottles with Dr. Phillips shown as the prescribing physician, and that on certain documents, Dr. Phillips was identified as the "Medical Director" (Ex. 51, T. 126);

After being advised that Dr. Phillips was on her way to Vida Spa to perform a procedure on the day the IC investigators were inspecting the premises, Vida Spa's owner Giselle Platfoot "left the room, returned shortly thereafter . . . And because Dr. Phillips was informed that we were from - - the Compliance Medical Board was there, that she [Dr. Phillips] was not going to arrive" (T. 133). As a result, a patient who was waiting for a scheduled procedure was sent away (T. 133). However, Vida Spa records reveal that the same patient returned at 6:15 that same evening and had her procedure, and a thorough review of the records show that Dr. Phillips was the treating physician (T. 136-138, Ex. 37);

Vida Spa did not produce its Sedation Log to the IC (T. 135-136). Rather, the Sedation Log was discovered by a Health Care Quality Compliance inspector during an inspection of Vida Spa's facilities (T. 136). Kristin Molina, RN, an employee of Vida Spa, advised that the Sedation Log was kept separately from other charts and records by orders of Ms. Platfoot and Dr. Phillips (T. 136-137);

Dr. Phillips was performing numerous surgical procedures, in which she was sedating patients, after she and Vida Spa were put on notice of the alleged violations of exceeding the scope of licensure (T. 138-140). Dr. Phillips was sedating patients, despite allowing her then counsel to deny such (Ex. 6, T. 139-142), and allowing her counsel to claim that Dr. Phillips was simply unaware that Vida Spa did not have the proper permits and certifications in place to perform the procedures that Dr. Phillips was performing, including the sedation of patients

(Ex. 6, T. 141-142). Dr. Phillips also allowed her then counsel to claim that "Dr. Phillips did not perform liposuction procedures at Vida Spa and never has", despite clear evidence to the contrary (Ex. 6, T. 142-143). Despite allowing her counsel to claim that conscious sedation was not being performed at Vida Spa after June, 2020, the evidence shows that Dr. Phillips was performing conscious sedation using Propofol on multiple occasions thereafter, and that such statement on Dr. Phillips' behalf was knowingly untruthful (Ex. 6, 43, 58, (see also Ex. 15-47), T. 142-146). In fact, just two days after her counsel made those denial statements on her behalf, Dr. Phillips was again using Propofol to sedate patients while performing liposuction procedures (Ex. 6, 58, T. 143-145). Despite records showing procedures where Propofol was routinely used, all medical records for patients of Vida Spa and Dr. Phillips for procedures performed after the IC's allegation letter was sent out do not show the use/administration of Propofol (Ex. 6, 15-47, T. 146-147).

LEGAL CONCLUSIONS

NRS 630.326 states in pertinent part that:

> 1. If an investigation by the Board regarding a physician, . . . reasonably determines that the health, safety or welfare of the public or any patient served by the licensee is at risk of imminent or continued harm, the Board may summarily suspend the license of the licensee pending the conclusion of a hearing to consider a formal complaint against the licensee. The order of summary suspension may be issued only by the Board or an investigative committee of the Board.
>
> 2. If the Board or an investigative committee of the Board issues an order summarily suspending the license of a physician . . . pursuant to subsection 1, the Board shall hold a hearing not later than 60 days after the date on which the order is issued, unless the Board and the licensee mutually agree to a longer period, to determine whether a reasonable basis exists to continue the suspension of the license pending the conclusion of a hearing to consider a formal complaint against the licensee. If no formal complaint against the licensee is pending before the Board on the date on which a hearing is held pursuant to this section, the Board shall reinstate the license of the licensee.

The Order of Summary Suspension filed with the Board on June 28, 2021, is incorporated herein by this reference. The undersigned hearing officer finds that each of the findings set out therein has been proven by the IC's case at the hearing, with the exception that a total of at least fifty-nine (59) patients were proven to have received general anesthesia,

conscious sedation or deep sedation via administration of Propofol at Vida Spa, and that such administration was under the direction of Dr. Phillips, and that Vida Spa and Dr. Phillips falsified and attempted to conceal records of such. Such record falsification and concealment violate NRS 630.3062(1)(a).

The Board did file a formal Complaint against Dr. Phillips pursuant to NRS 630.326(2). The facts set out above show that Dr. Phillips, who is on probationary status with the Board, is practicing outside the terms of her Settlement Agreement, and contrary to the health, safety, and welfare of the public in general, as well as any patients actually being treated by Dr. Phillips.. Further, it is reasonable to determine from the facts adduced at the hearing that Dr. Phillips' continuing practice creates a risk to the health, safety, or welfare of the public, along with any patients who may seek treatment from her.

Wherefore, the Summary Suspension issued by the Board on June 28, 2021, is hereby ordered continued.

Dated this 23rd day of November, 2021.

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

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

In the Matter of Charges and Complaint Against MARYANN D. PHILLIPS, M.D. Respondent.	**CASE NO.: 21-10032-1** **Early Case Conference: 10:00 A.M.** **January 12, 2022**

FILED
DEC 13 2021
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By: [signature]

NOTICE AND ORDER SCHEDULING EARLY CASE CONFERENCE

TO: DONALD K. WHITE, Esq., General Counsel and Attorney for the Investigative Committee of the Nevada State Board of Medical Examiners;

MARYANN D. PHILLIPS, M.D., c/o
MARIA NUTILE, Esq., and BRIDET ANN KELLY, Esq.

NOTICE IS HEREBY GIVEN that on September 16, 2021, an Amended Complaint was filed in the name of the Investigative Committee of the Nevada State Board of Medical Examiners pursuant to Chapter 630 of the Nevada Revised Statutes, charging Respondent with violation of the Medical Practice Act. A true and correct copy of said Amended Complaint was served upon Respondent on or about September 20, 2021.

ACCORDINGLY, NOTICE IS HEREBY GIVEN that in compliance with NRS 630.339(3),[1] **an Early Case Conference will be conducted on Wednesday, January 12, 2022,**

---

[1]3. Within 20 days after the filing of the answer, the parties shall hold an early case conference at which the parties and the hearing officer appointed by the Board or a member of the Board must preside. At the early case conference, the parties shall in good faith:

a) Set the earliest possible hearing date agreeable to the parties and the hearing officer, panel of the Board or the Board, including the estimated duration of the hearing;

b) Set dates:

(1) By which all documents must be exchanged;
(2) By which all prehearing motions and responses thereto must be filed;
(3) On which to hold the prehearing conference; and
(4) For any other foreseeable actions that may be required for the matter;

(c) Discuss or attempt to resolve all or any portion of the evidentiary or legal issues in the matter;
(d) Discuss the potential for settlement of the matter on terms agreeable to the parties; and
(e) Discuss and deliberate any other issues that may facilitate the timely and fair conduct of the matter.

beginning at 10:00 A.M., in the Conference Room at the Office of the Nevada State Board of Medical Examiners, located at 9600 Gateway Drive, Reno, Nevada 89521, or as soon thereafter as it may be heard.

NOTICE IS FURTHER HEREBY GIVEN that the Early Case Conference shall be attended by the parties in person or by any party's legal counsel of record and will be conducted by the undersigned Hearing Officer in order to discuss and designate the dates for the Pre-Hearing Conference and Hearing, and other procedural matters established in NRS 630.339. *Respondent may elect to participate in the Early Case Conference by telephone if prior arrangements are made with the Deputy General Counsel for the Investigative Committee of the Nevada State Board of Medical Examiners in sufficient time prior to the time and date fixed to arrange that alternative means of participation.*

NOTICE IS FINALLY HEREBY GIVEN that the possible sanctions authorized by NRS 630.352 and NRS 622.400 to be imposed on the Respondent based on a sustained charge in regard to one or more of the issues raised in said Complaint include one or more of the following sanctions:

A. Placement on probation for a specified period on any of the conditions specified in the order;

B. Administration of a public reprimand;

C. Suspension of his license for a specified period or until further order of the Board;

D. Revocation of his license to practice;

E. A requirement that he participate in a program to correct alcohol or drug dependence or any other impairment;

F. A requirement that there be specified supervision of his practice;

G. A requirement that he perform public service without compensation;

H. A requirement that he take a physical or mental examination or an examination testing his medical competence;

I. A requirement that he fulfill certain training or educational requirements, or both, as specified by the Board;

J. Imposition of a fine on you not to exceed $5,000 for each violation;

///

K. A requirement that a practitioner licensed by the State Board of Medical Examiners, pursuant to NRS 622.400 pay all costs incurred by the Board relating to the disciplinary proceedings as more fully set forth in said statute.

DATED this 8 day of December, 2021.

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

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, ESQ.
General Counsel and Attorney for the Investigative Committee of the Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, Nevada 89521

MARYANN D. PHILLIPS, M.D.,
c/o LEO FLANGAS, ESQ.
FLANGAS LAW FIRM
600 S. Third Street
Las Vegas, NV 89101

DATED this 13th day of December, 2021.

Legal Assistant
Nevada State Board of Medical Examiners

FILED

JAN - 6 2022

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

LEO P. FLANGAS, ESQ.
Nevada Bar No.: 5637
FLANGAS LAW FIRM, LTD.
600 South Third Street
Las Vegas, Nevada 89101
Telephone: (702) 384-1990
Facsimile: (702) 384-1009
Email: leo@flangaslawfrim.com
Attorney for Plaintiff

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

CASE NO.: 21-10032-1

In the Matter of Charges and Complaint Against:

MARYANN DEFOREST PHILLIPS, M.D., Defendant

COMES NOW, Defendant MARYANN DEFOREST PHILLIPS, M.D., by and through her attorney, LEO P. FLANGAS, ESQ. of FLANGAS LAW FIRM, LTD., and hereby file their Answer to Complaint.

1. Answering paragraph 1, 2, 3, of the Complaint, Defendant admits the allegations within.
2. Answering paragraph 10, of the Complaint, Defendant denies the allegations within; and admits that her Controlled Substances Registration was made inactive and retired in 2014.
3. Answering paragraph 9, 17, 18, 19, 20, 21, 24, 25, 26, 27, 28, 29, 31, 32, 33, 34, 36, 37, 42, and 43 of the Complaint, Defendant denies the allegations within.
4. Answering paragraph 13, of the Complaint, Defendant denies, and is without sufficient understanding as to the alleged violations of various state and federal laws. Defendant denies performing invasive procedures such as liposuction, she was not fully certified until July 2021, but admits to performing fat grafting while at Vida Spa.

5. Answering paragraph 15, 22, 23, 24, 44, Defendant denies administering propofol for the purposes of general anesthesia, conscious sedation, or deep sedation in violation of NRS 630.373.
6. Answering paragraph 4, 5, 6, 7,8, 9, 12, 14, 16, 30, 35, 38, 39, 40, 41, 45, 46 of the Complaint, Defendant is without sufficient knowledge to form a reasonable belief as to the truth or falsity of the allegations contained therein, and therefore deny each and every allegation contained therein.

FIRST AFFIRMATIVE DEFENSE

Plaintiff has failed to state a claim against Defendant upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Defendant alleges that the violation of any State or Federal Law were the result of a third party's acts, omissions or wrongdoing, or the result of the acts omissions or wrongdoing of third parties over whom Defendant has no control.

THIRD AFFIRMATIVE DEFENSE

Any claims of Plaintiff's are barred by the doctrines or laches, estoppel, and waiver.

FOURTH AFFIRMATIVE DEFENSE

The Defendant's actions were taken in good faith, reliant upon information provided by a third party and others, and with a reasonable belief that such actions were appropriate, necessary, and legal.

FIVE AFFIRMATIVE DEFENSE

At all times, this answering Defendant acted with due care and diligence relating to the incident alleged in Plaintiff's Complaint, and therefore, this answering Defendant breached no duty to the Plaintiff.

SIX AFFIRMATIVE DEFENSE

The Defendant asserts that a third party was operating a legally licensed medical facility as defined in NRS 449.0151, and asserts that the allegations alleged are wrongfully alleged and should be assigned to the third party.

SEVENTH AFFIRMATIVE DEFENSE

A third party failed to exercise ordinary care, caution or prudence to avoid the loss complained of in the claims and that failure directly and proximately contributed to, and was caused by the negligence, misconduct or fault of the third party.

EIGHTH AFFIRMATIVE DEFENSE

Defendant performed on Defendant's part, each and every duty, if any, owed by it towards patients and third parties.

NINTH AFFIRMATIVE DEFENSE

Because the Complaint is couched in conclusory and vague terms, Respondent cannot fully anticipate all possible affirmative defenses that may be applicable to this case. Therefore, Respondent reserves the right to amend the Answer to allege additional.

TENTH AFFIRMATIVE DEFENSE

Pursuant to NRCP 8, as amended, all possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of Plaintiff's Complaint; therefore, Respondents reserve the right to amend this Answer to allege additional affirmative defenses if subsequent investigation so warrants.

PRAYER

WHEREFORE, Respondent respectfully pray as follows:

I. That Medical Board take nothing by way of their Complaint against Defendant;

1. That all causes of action in the Medical Board's Complaint to the Defendant be dismissed with prejudice;
2. That the Medical Board find that Respondent is not entitled to repay any damages, monetary or otherwise;
3. That the Medical Board find the Defendant acted in compliance with all State and Federal Laws;
4. For such other and further relief as this Court may deem reasonable and just under the circumstances.

DATED this 5th day of January 2022.

FLANGAS LAW FIRM, LTD.

By: */s/ Leo Flangas*

LEO P. FLANGAS, ESQ.
Nevada Bar No.: 5637
600 South Third Street
Las Vegas, Nevada 89101
Email: leo@flangaslawfirm.com
Attorney for Respondent

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that on this 6th day of January 2022, service of the foregoing **ANSWER TO FIRST AMENDED COMPLAINT** was made by serving the parties listed below on through the courts Odyssey E-file and Serve system and by depositing a true and correct copy of the same for regular mailing at Las Vegas, Nevada, first class postage fully prepaid.

/s/ Ami Rebecca Meyers
An employee of FLANGAS LAW FIRM

BEFORE THE BOARD OF MEDICAL EXAMINERS

OF THE STATE OF NEVADA

In the Matter of Charges and Complaint Against MARYANN D. PHILLIPS, M.D., Respondent.	**CASE NO.: 21-10032-1**

FILED

MAR 0 4 2022

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

NOTICE AND ORDER SCHEDULING PRE-HEARING AND HEARING

TO: AARON B. FRICKE, Deputy General Counsel and Attorney for the Investigative Committee of the Nevada State Board of Medical Examiners, 9600 Gateway Drive, Reno, Nevada 89521

LEO P. FLANGAS, ESQ. of FLANGAS LAW FIRM, LTD., 600 SOUTH THIRD STREET, LAS VEGAS, NV 89101

On Wednesday, January 12, 2022, a telephonic Early Case Conference was conducted in this matter. Aaron B. Fricke was present on behalf of the Investigative Committee in the conference room of the Nevada State Board of Medical Examiners, and Leo P. Flangas, ESQ., appeared telephonically. The undersigned Hearing Officer appeared telephonically as well. The parties agreed to dates for the pre-hearing conference, exchange of documents, and the formal hearing date.

Accordingly, in compliance with NAC 630.465, **a pre-hearing conference will be conducted on Wednesday, July 13, 2022, beginning at the hour of 2:00 P.M.**, Pacific Standard Time, in the conference room at the Office of the Nevada State Board of Medical Examiners, 9600 Gateway Drive, Reno, Nevada 89521. The conference, to be attended by the parties in person or by counsel,[1] will be conducted before the undersigned hearing officer to assure that all written information and documentation to be presented by the parties at the formal hearing is fully and completely exchanged.

[1] Respondent or Respondent's counsel may participate in the pre-hearing conference by telephone if prior arrangements are made with counsel for Investigative Committee.

At the pre-hearing conference each party is to provide the other party with a copy of the list of witnesses they intend to call to testify, including their qualifications, as well as a brief summary of their anticipated testimony. If a witness is not included in the list of witnesses, that witness may not be allowed to testify at the hearing unless good cause is shown.

The formal hearing in this matter is hereby scheduled for Monday, August 15, 2022, commencing at 9:00 A.M., and continuing through Wednesday, August 17, 2022, commencing at 9:00 A.M.. The venue for the hearing will be determined. Respondent must be present at the hearing in person. Following the hearing, the Hearing Officer will submit to the Board a synopsis of the testimony taken at the hearing and make a recommendation on the veracity of witnesses if there is conflicting evidence or if credibility of witnesses is a determining factor, and thereafter the Board will render its decision. **NAC 630.470.**

It is further ordered that legal counsel for the Investigative Committee and Respondent or Respondent's counsel shall keep this Hearing Officer advised of each issue which has been resolved by negotiation or stipulation, or any other change in the status of this case.

DATED this 1st day of February, 2022.

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

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 document addressed as follows:

AARON B. FRICKE, Deputy General Counsel and Attorney for the Investigative Committee of the Nevada State Board of Medical Examiners, 9600 Gateway Drive, Reno, Nevada 89521

LEO P. FLANGAS, ESQ. of FLANGAS LAW FIRM, LTD., 600 SOUTH THIRD STREET, LAS VEGAS, NV 89101

DATED this 4th day of March, 2022.

Legal Assistant
Nevada State Board of Medical Examiners

1 BEFORE THE BOARD OF MEDICAL EXAMINERS

2 OF THE STATE OF NEVADA

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FILED
JUN 20 2022
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By: _____

5

6

In the Matter of Charges and Complaint Against: Case No. 21-10032-1

7

8 MARYANNE DEFOREST PHILLIPS, M.D.,

9 Respondent.

_____/

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14

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16 TRANSCRIPT OF PROCEEDINGS

17 HEARING ON ORDER FOR SUMMARY SUSPENSION

18 August 18, 2021

19 Reno, Nevada

20

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22

23

24 REPORTED BY: CONSTANCE S. EISENBERG, NV CCR #142, RMR, CRR

08:44AM 25 Job No. 787340

1 A P P E A R A N C E S

2

3 THE HEARING OFFICER:

4 WOODMAN LAW GROUP
BY: CHARLES B. WOODMAN, ESQ.
5 548 W. Plumb Lane, Ste. B
Reno, Nevada 89501-2001
6 775-786-9800
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8 FOR THE PETITIONER, NEVADA STATE BOARD OF MEDICAL EXAMINERS:

9
DONALD K. WHITE, ESQ.
10 9600 Gateway Drive
Reno, Nevada 89521
11 775-324-9355
Fax 775-688-2321
12 Dwhite@medboard.nv.gov

13

14 FOR THE RESPONDENT:

15 (No appearance)

16

17 ALSO PRESENT:

18 MARGARET FRANCIS BYRD
Legal Assistant
19 Nevada State Board of Medical Examinations

20

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1 RENO, NEVADA WEDNESDAY, AUGUST 18, 2021, 9:07 A.M.
2 -o0o-
3 THE HEARING OFFICER: All right. We are on the record
4 in The Matter of Charges and Complaint Against Maryanne DeForest
09:07AM 5 Phillips, M.D., Respondent. It's case number 21-10032-1.
6 There is a complaint which has been filed and this
7 hearing on this complaint follows an Order of Summary Suspension
8 that was filed June 28th, 2021. In a moment we'll hear from
9 Mr. White as to service of that Order of Summary Suspension.
09:08AM 10 The last part of that order set today's hearing.
11 And whenever I refer in this proceeding to the IC, I'm
12 referring to the Investigative Committee of the State Board of
13 Medical Examiners. And sometimes I'll also refer to the Board
14 just as "the Board," and that's what I mean, is the Nevada State
09:08AM 15 Board of Medical Examiners.
16 And again, Mr. Donald White is here on behalf of the IC.
17 Dr. Maryanne Phillips thus far has not appeared.
18 I will clarify for the record that we have a live video
19 feed going to the Board's Las Vegas office.
09:09AM 20 It's my understanding that we'll hear witnesses who will
21 testify from that office in Las Vegas on behalf of the IC, but
22 I'll also note that Dr. Phillips does not appear to have arrived
23 there to participate remotely from Las Vegas. She's not there,
24 she's not here. And in a moment we'll clarify that she's been
09:09AM 25 given proper notice of this hearing. And assuming that she has,

1 then we will move forward.

2 Mr. White, before we take care of any other

3 housekeeping, do we have proof of service of that, of notice of

4 this hearing on her which would obviously include the Order of

09:09AM 5 Summary Suspension?

6 MR. WHITE: Yes, Mr. Woodman. Thank you. I'll submit

7 that I'm holding an Acceptance of Service.

8 At the time this was filed on June 28th, 2021, Lyn

9 Beggs, who was her attorney of record at the time, signed it, the

09:10AM 10 Acceptance of Service for the Order of Summary Suspension, if you

11 would like to take a look at that.

12 THE HEARING OFFICER: Thank you. And while I'm doing

13 that, Ms. Beggs, has she -- on the record, has she does something

14 to withdraw from her representation of Dr. Phillips? Or do we

09:10AM 15 know, was she only retained for that one summary suspension? What

16 do we know about her representation?

17 MR. WHITE: Trying to recall, but she did withdraw. I

18 don't know if she sent us an official letter, but it was certainly

19 an email, saying that she was withdrawn.

20 THE HEARING OFFICER: All right.

21 MR. WHITE: I don't have it printed out, but she did.

22 THE HEARING OFFICER: All right. Maybe before we're

23 done here, if you can find, on a break or something, or over the

24 lunch hour, depending on how far we go, if you can print that off.

09:10AM 25 I just want to make sure that Dr. Phillips is being

1 given every reasonable opportunity to appear either personally,
2 which we want her to be, but at least through counsel, and want to
3 make sure that she's not being left out in the cold here.
4 All right. With that, Mr. White, do you have any
09:11AM 5 housekeeping issues before we get to either an opening statement
6 and/or evidence?
7 MR. WHITE: I just -- yeah, a couple of things.
8 Obviously, you had stated earlier that the complaint has
9 been filed in this. Obviously, one of the requirements to have
09:11AM 10 her, to have Dr. Phillips remain suspended per NRS 630.326 is that
11 we have a complaint filed; otherwise, no matter what kind of
12 evidence, I guess, we presented today, you could just deem it that
13 she has her license back, according to that statute.
14 So we have filed it. It was my intention to serve her
09:11AM 15 with it today, should she be here, which she knows about this
16 summary suspension through her former attorney.
17 So we're not able to serve her today. That will be
18 something we work on in the days forward. So we'll try and find
19 her and get her served with the complaint.
09:12AM 20 In addition, I would ask that if we can try and expedite
21 the written findings and recommendations for this just because
22 these things kind of move fast.
23 I assume we'll be setting a hearing date today too at
24 some point, should -- whether she remains suspended or not, we'll
09:12AM 25 still set a hearing date for, actually, hearing on the merits.

1 THE HEARING OFFICER: Right.

2 MR. WHITE: And that won't be too far down the road, I
3 suspect; especially if she does remain suspended, we would want
4 her in here as quick as possible, or, you know, for both parties,
09:12AM 5 reasonable time to prepare, but also to -- if she remains
6 suspended -- to be fair to her, have a hearing on the merits, so
7 we can determine more at that point.

8 So, like I said, these things kind of move pretty
9 quickly so I would ask that those written findings and
09:13AM 10 recommendations be sent to us as quickly as possible.

11 And also if Madam Court Reporter can get us the
12 transcript as soon as possible. I know everybody is busy. I say
13 this with complete deference to what you guys have to do, but,
14 yeah, so if we can get that, maybe by the end of next week or
09:13AM 15 something, that would be fantastic.

16 I do have to amend the Order of Summary Suspension a
17 little bit. We do have in that -- you'll notice that -- and this
18 is just a matter of getting evidence sort of after it was written,
19 and it's really actually going to take some things off.

09:13AM 20 There's really no counts in here, but I just want to,
21 for clarity of the record -- going to paragraph 11 on page 3, I'm
22 going to leave that as it is.

23 We have, you will see, I'll just proffer this now, you
24 will see a sedation log in the evidence that our investigator was
09:14AM 25 able to obtain, that shows 72 different patients were given

1 propofol, so I'll leave that as it is.
2 However, when it comes to -- let's see, I think we
3 have --
4 THE HEARING OFFICER: It refers back to --
09:14AM 5 MR. WHITE: Paragraph 14. Yeah, paragraph 14, on
6 page 4.
7 THE HEARING OFFICER: And it talks about that in 15
8 again, and 16, for what it's worth.
9 MR. WHITE: Yeah exactly, 15 and 16.
09:14AM 10 So when it comes to sort of the alleged fraudulent
11 behavior of concealing the use of propofol from the medical
12 records, and it will reflect that, you'll see it reflected in the
13 complaint, that actually should be now 59 times, not 72 times.
14 THE HEARING OFFICER: All right.
09:15AM 15 MR. WHITE: Because we do not have medical records for
16 all 72 patients. So I do not want to allege something that I
17 can't -- I don't know of. We just haven't gotten them all.
18 THE HEARING OFFICER: So in paragraphs 14, 15 and 16,
19 really, we're not talking about 72 patients in terms of what you
09:15AM 20 can prove, but 59?
21 MR. WHITE: Correct. And 17, which would be line 6 on
22 page 5, that would also be 59 instances.
23 THE HEARING OFFICER: Got it. Very good.
24 MR. WHITE: And like I said, that will reflect what's in
09:15AM 25 the Complaint that's been filed yesterday.

1 THE HEARING OFFICER: All right. Anything else to
2 address before we get to the case itself?
3 MR. WHITE: I think. Let me just see.
4 No, I think we've got it all. If I think of anything,
09:16AM 5 I'll ask for -- to be heard on that, but I think I've got
6 everything I need for housekeeping.
7 THE HEARING OFFICER: All right. You remember my rule,
8 and that is that we'll take care of our court reporter since she's
9 taking care of the record, which is king here.
09:16AM 10 And so if our reporter needs something restated, if
11 she's having a hard time hearing a witness, or if one of us
12 mumbles, we will give total deference to her.
13 When she's ready for a break, because sometimes we get
14 into these things and I don't think about how long she has been
09:16AM 15 banging away over there, she's just going to let us know, and we
16 will take breaks as we need to, to keep her going.
17 MR. WHITE: Certainly.
18 THE HEARING OFFICER: With that, did you want to make an
19 opening statement or do you just want to get right to the
09:16AM 20 evidence? I leave that totally up to you, Mr. White.
21 MR. WHITE: I have just kind of a short one.
22 THE HEARING OFFICER: All right.
23 MR. WHITE: Short opening statement. Thank you.
24 This hearing today concerns the summary suspension of
09:17AM 25 Dr. Phillips, and as required by statute to determine if a

1 reasonable basis to exists to continue the suspension of
2 Dr. Phillips' license to practice medicine.
3 The governing statute, as I mentioned before, is
4 NRS 630.326.
09:17AM 5 THE HEARING OFFICER: Remember, when you're reading,
6 it's easy to go fast and we have got the keep our eye on the
7 prize.
8 MR. WHITE: Yes, thank you.
9 Today we're primarily concerned with Subsections 1 and
09:17AM 10 2, which state that if an investigation by the Board regarding a
11 physician, perfusionist, physician assistant or practitioner of
12 respiratory care reasonably determines that the health, safety or
13 welfare of the public or any patient served by the licensee is at
14 risk of imminent or continued harm, the Board may summarily
09:18AM 15 suspend the license of the licensee pending the conclusion of a
16 hearing to consider a formal complaint against the licensee.
17 If the Board or Investigative Committee of the Board
18 issues an order summarily suspending the license of a physician,
19 the Board shall hold a hearing not later than 60 days.
09:18AM 20 We are within that range, after the date on which the
21 order is issued.
22 And there has been no talks of -- just as a sidebar --
23 there has been no talks of any continuance or anything like that
24 for this hearing today. So --
09:18AM 25 THE HEARING OFFICER: All right. And I'll just clarify,

1 as I stated earlier, the summary suspension order was issued
2 June 28th. Today is August 18th. So we're within that 60 days.
3 MR. WHITE: Dr. Phillips has been licensed since
4 December 21st, 1995. Her license is currently indefinitely
09:19AM 5 suspended pending what happens today and at the next hearing.
6 The Investigative Committee issued a summary suspension
7 of Dr. Phillips' license to practice medicine on June 28th, 2021,
8 as you've stated, Mr. Woodman.
9 Dr. Phillips is also subject to a settlement agreement
09:19AM 10 that lasts until approximately June 2022, that is right now marked
11 as Exhibit 1, for any kind of reference that you need.
12 Throughout this hearing the evidence will show that
13 Dr. Phillips was served with the summary suspension through her
14 attorney at the time. Also, a board investigator, Kim Friedman,
09:19AM 15 who you'll hear from pretty soon as the investigator on this case,
16 compiled nearly all of the evidence in the binders before you.
17 Ms. Friedman also did two separate inspections of
18 Vida Spa, one in October of 2020 and one in June of 2021. You'll
19 see that she was able to gather important evidence. One of them
09:20AM 20 is a sedation log. And that, I will submit now and show later,
21 that it was something that maybe the IC may -- we may have never
22 seen it otherwise, that sedation log.
23 Ms. Friedman was also able to gather important photos of
24 Vida Spa during her visit during her inspection.
09:20AM 25 You'll also find out that Ms. Friedman was working in

1 conjunction with other agencies, because Vida Spa and the doctors
2 Vida Spa hired were running afoul of the statutes at a few
3 agencies.
4 Ms. Friedman, through orders, requests and subpoenas,
09:20AM 5 was able to compile the medical records you see in the binders
6 before you.
7 You will also hear from a recent patient of Vida Spa,
8 which will be one of the witnesses we call today, and more
9 importantly, she was a patient of Dr. Phillips.
09:20AM 10 She will tell you about her experience and how it was
11 not what she expected, it was frightening, and she's still
12 experiencing ill effects of her surgery in the overall experience.
13 After you hear and see the evidence about to be
14 presented in this matter, you will agree that Dr. Phillips was
09:21AM 15 administering general anesthesia for conscious sedation or deep
16 sedation, any kind, at an unaccredited location. That runs afoul
17 of NRS 630.373, which is noted in the summary suspension order,
18 which has to do with, really, a doctor cannot administer or
19 supervise directly the administration of general anesthesia unless
09:21AM 20 the general anesthesia or conscious sedation or deep sedation is
21 in an office of a physician or osteopathic physician which holds a
22 permit.
23 This, you'll find out, that this Vida Spa did not have a
24 permit to offer those services for any kind of sedation.
09:21AM 25 And she did that, as you'll see from the sedation log,

1 that there was at least 72 patients that were administered
2 propofol. I'll submit there's probably a lot more than that, we
3 just don't have any of those records.
4 Also was violating or failed to maintain proper medical
09:22AM 5 records. In trying to conceal the use of propofol, you will see
6 through the evidence and through the testimony that the sedation
7 log has names of people. We have the medical records for 59 of
8 those patients. None of them have propofol listed in the list of
9 medications or anything used during the surgery. Propofol is just
09:22AM 10 absent from all those records.
11 And so that would be a failure to maintain proper
12 medical records. For that many patients, it's very dangerous to
13 try and conceal that.
14 THE HEARING OFFICER: Just to help both the reporter and
09:23AM 15 me and my notes, how do you spell "propofol"?
16 MR. WHITE: P-R-O-P-O-F-O-L.
17 THE HEARING OFFICER: Thank you.
18 MR. WHITE: She also violated the standards of practice.
19 NRS 630.306(1)(b)(2) provides that engaging in any conduct which
09:23AM 20 the Board has determined is a violation of the standards of
21 practice established by regulation of the Board constitutes
22 grounds for initiating disciplinary action.
23 In this case it's -- you're also -- per
24 NAC 630.230(1)(a), it's prohibited professional conduct to falsify
09:23AM 25 records of health care.

1 Again, the allegation is that she is hiding the use of
2 propofol, concealing it, by not putting it in the medical records,
3 yet we have a law that states patient names, dates, everything.
4 And finally, engaging in unsafe or unprofessional.
09:24AM 5 Conduct pursuant to NRS 630.306(1)(p), and engaging in any act
6 that is that unsafe or unprofessional conduct in accordance with
7 regulations adopted by the Board.
8 So a regulation that has been adopted by the Board is
9 NAC -- which stands for Nevada Administrative Code --
09:24AM 10 630.230(1)(a), prohibits falsifying records of health care.
11 And again, we have -- we're going to show 59 instances
12 of where she did that.
13 So I think the testimony and evidence that will be
14 presented today will establish that the health, safety or welfare
09:25AM 15 of the public or any patient served by the licensee is -- was and
16 is at risk of imminent or continued harm. And that a reasonable
17 basis, which is the burden that needs to be shown by the IC today,
18 exists that warrants that her license to practice medicine should
19 remain suspended.
09:25AM 20 Thank you.
21 THE HEARING OFFICER: Very good.
22 MR. WHITE: I'll call my first witness, if you like.
23 THE HEARING OFFICER: Please call your first witness.
24 MR. WHITE: First witness will be Kim Friedman.
09:25AM 25 THE HEARING OFFICER: Since we're trying to reach her,

which way does she spell "Friedman"?

MR. WHITE: It is F-R-I-E-D-M-A-N.

THE HEARING OFFICER: Thank you.

MR. WHITE: You're welcome.

09:26AM THE HEARING OFFICER: She's one of the IC investigators?

MR. WHITE: Yes.

Are we still on the record?

THE HEARING OFFICER: Do you want to go off?

MR. WHITE: No, I would like to remain on the record.

09:26AM One thing I would like to, just for fairness, even though Dr. Phillips is not here, I would like to invoke the Rule of Exclusion.

So I will ask that my witnesses don't talk to one another. So I'll make sure -- or if you can, Mr. Woodman,

09:27AM admonish Ms. Friedman when she comes in.

THE HEARING OFFICER: Yeah, the rule will be invoked.

Good morning, Ms. Friedman.

THE WITNESS: Good morning.

THE HEARING OFFICER: You can hear me all right?

09:27AM THE WITNESS: I can. Can you hear me?

THE HEARING OFFICER: I can hear you just fine.

Making sure our reporter can hear you since she's going to be taking down everything you say.

Ms. Friedman, I'm Charles Woodman. I am the Board's

09:27AM hearing officer assigned to this case. I just want to let you

1 know, before Mr. White starts asking you questions, the Rule of
2 Exclusion has been invoked.
3 And what that means is that other than while you are
4 testifying here on the record, answering questions, after your
09:27AM 5 testimony and whether you are brought back to add any other
6 testimony later on or not, please don't speak with any other
7 potential witnesses in this case about your testimony or about the
8 case in general. Okay?
9 THE WITNESS: Okay.
09:28AM 10 THE HEARING OFFICER: Until this hearing concludes.
11 Thank you, ma'am.
12 All right. Mr. White.
13 I'm sorry, Ms. Friedman, will you raise your right hand?
14 Our court reporter is going to swear you in.
15
16 KIMBERLY FRIEDMAN
17 called as a witness, having been duly sworn,
18 testified remotely as follows:
19
09:28AM 20 THE HEARING OFFICER: Thank you.
21
22 DIRECT EXAMINATION
23 BY MR. WHITE:
24 Q Ms. Friedman, I'm going to ask you, actually, do you
09:28AM **25 prefer the view of us, all of us at the table, or would you prefer**

1 just on me?
2 A All at the table is fine.
3 Q Okay. Okay.
4 Good morning, Ms. Friedman.
09:29AM 5 A Good morning.
6 Q I'm going to ask you, we have kind of done this already,
7 I think, but I just want to ask you to introduce yourself, say
8 your name, first and last, and maybe spell your last name for the
9 court reporter, please.
09:29AM 10 A Yes. It's Kimberly Friedman, F-R-I-E-D-M-A-N.
11 Q Thank you. And do you work for the Medical Board?
12 A Yes, I do.
13 Q How long have you worked for the Medical Board?
14 A 12 years. I'm sorry, nine years.
09:29AM 15 Q Nine years. Okay.
16 A Yes.
17 Q Now, you are in the Las Vegas office. Have you always
18 worked in the Las Vegas office or did you work in Reno at any
19 time?
09:29AM 20 A Only the Las Vegas office.
21 Q Okay. And what is your job description? What's your
22 title?
23 A Senior investigator.
24 Q Thank you. I'm going to take you through -- you have
09:30AM 25 some binders before you, as you can see. I'm going to take you

1 through, well, pretty much each exhibit, just to try and
2 authenticate these, lay a foundation as to where they came from,
3 who got them, that sort of thing. Okay?
4 A Okay.
09:30AM 5 Q Okay. So I want you to take a look at Exhibit 1.
6 Well, actually, have you had a chance -- let me stop you
7 for a second. I'm going to do this, but have you had a chance to
8 look at these binders?
9 A Yes, I have.
09:30AM 10 Q And what's contained in them?
11 A Yes, I have.
12 Q Okay. Would you submit that nearly everything in these
13 binders was compiled by you in your investigation of this case?
14 A That's correct.
09:30AM 15 Q And let me ask you -- let me back up a little bit more.
16 Were you assigned to investigate this case of Maryanne
17 Phillips?
18 A Yes, I was.
19 Q Okay. All right. So let's just go to Exhibit 1 really
09:31AM 20 quick. And what do you see there?
21 A It is a Settlement Agreement in the Matter of Charges
22 and Complaint Against Maryanne Phillips, Respondent.
23 Q So did you actually compile this?
24 A I did not create this document.
09:31AM 25 Q Correct. Okay. Thank you. I actually created this

document, but you have seen settlement agreements before, haven't you?

A Yes, I have.

Q And so you can attest to, this is a settlement

09:31AM **agreement, you know, it's an example of a settlement agreement you've seen in many cases in your nine years working for this office?**

A Yes.

MR. WHITE: I move to have this admitted, Mr. Woodman.

09:31AM Also, based on it's a public document, and I think you can take judicial notice too, that it's a file document in the case.

THE HEARING OFFICER: One will be admitted.

MR. WHITE: Or in a previous case, I should say.

Thank you.

09:32AM (Exhibit 1 admitted into evidence.)

BY MR. WHITE:

Q Ms. Friedman, please turn to Exhibit 2.

A Okay.

Q Just so everyone knows, I'm not going to go individually

09:32AM **through every patient we have. We have a lot of patients, 59 patients. I'm not going to go individually through those. I'll probably do those as a group so we won't be here until tomorrow.**

THE HEARING OFFICER: Very good.

BY MR. WHITE:

09:32AM **Q So, Ms. Friedman, what is that document we're looking at**

in Exhibit 2?

A This is a printout from the Secretary of State business license.

Q And did you -- did you gather this evidence?

09:32AM A Yes.

Q Okay. And I'm sorry, I was writing something down really quick. Did you say also it's a business license from the Nevada Secretary of State for Vida Spa, LLC?

A For Vida Spa, LLC, correct.

09:33AM **Q Okay. I'll ask you to turn to page 13 of that exhibit.**

A Okay.

Q Are you familiar with the manager's name there?

A Yes.

Q Okay. And so -- and what is her name?

09:33AM A Giselle Platfoot.

Q What does she have to do with Vida Spa?

A She is the owner of Vida Spa.

Q And does that address appear to be correct?

A Correct, on 3225 South Rainbow Boulevard.

09:33AM MR. WHITE: Okay. Thank you.

I would move to admit Exhibit 2.

THE HEARING OFFICER: Two is admitted.

(Exhibit 2 admitted into evidence.)

BY MR. WHITE:

09:34AM **Q Right. Please turn to Exhibit 3, Ms. Friedman.**

Are you familiar with this document?

A Yes.

Q Did you gather this when you were compiling evidence for this case?

09:34AM A Yes.

Q And what is it?

A It is a print-off from the Clark County business license showing the business detail for Vida Spa.

Q And just kind of -- just to note, is it the same address

09:34AM **as the Secretary of State printout that we have?**

A Yes.

Q And also business owner, you see that heading?

A Yes, Giselle Platfoot.

MR. WHITE: Thank you. I move to admit Exhibit 3.

09:35AM THE HEARING OFFICER: Three will be admitted.

(Exhibit 3 admitted into evidence.)

BY MR. WHITE:

Q Okay. Ms. Friedman, please turn to Exhibit 4, what's been marked as Exhibit 4.

09:35AM A Okay.

Q What do we see there?

A It's the allegation letter that I sent to Dr. Maryanne Phillips on March 19th, 2021.

Q Okay. I think you kind of answered two with one

09:35AM **question there. That's good. So you sent this. You actually**

1 **sent this?**

2 A Yes.

3 **Q And attached to that, starting at page 18, what do we**

4 **see there?**

09:35AM 5 A That is the Board order that was sent along with the

6 allegation for a formal written response to the letter.

7 **Q Okay. And also was it to start gathering some medical**

8 **records?**

9 A No. At this time it was just wanting a response to the

09:36AM 10 allegation letter.

11 MR. WHITE: Okay. Considering that Ms. Friedman is the

12 one who sent this letter, I would move to admit Exhibit 4.

13 THE HEARING OFFICER: Four is admitted.

14 (Exhibit 4 admitted into evidence.)

09:36AM 15 BY MR. WHITE:

16 **Q Please turn to what's been marked as Exhibit 5,**

17 **Ms. Friedman.**

18 A Okay.

19 **Q You're already there? Okay. What do we have here?**

09:36AM 20 A This is a second request to respond to the allegation

21 letter that I had previously sent to Dr. Maryanne Phillips.

22 **Q Okay. So why would a second request be sent?**

23 A Because the 30-day mark had transpired and it was time

24 to send a second request because I had not received a response

09:37AM 25 from Dr. Phillips.

1 MR. WHITE: Okay. I would move to admit Exhibit 5.
2 THE HEARING OFFICER: Five is admitted.
3 (Exhibit 5 admitted into evidence.)
4 THE HEARING OFFICER: And, Ms. Friedman, I'll just ask
09:37AM 5 you a question. You said you hadn't received a response.
6 Obviously, I can tell by you sending the second request, you
7 hadn't gotten any records.
8 Had you heard in any way, shape or form from
9 Dr. Phillips that she called, emailed, left any messages?
09:37AM 10 THE WITNESS: No.
11 THE HEARING OFFICER: Okay. Thank you.
12 MR. WHITE: Thank you, Mr. Woodman.
13 BY MR. WHITE:
14 Q Turn, please, to what has been marked as Exhibit 6,
09:37AM **15 Ms. Friedman.**
16 What is this document we're looking at?
17 A This is a response on behalf of Dr. Maryanne Phillips
18 through her representation by Lyn Beggs.
19 Q And it appears it's addressed to you; is that correct?
09:37AM 20 A That is correct.
21 Q Okay. And it's dated -- what's the date at the top?
22 A May 19th of 2021.
23 MR. WHITE: Sorry, I talked over her. Did you hear
24 that, Ms. Court Reporter?
09:38AM 25 THE REPORTER: May 19th of 2021?

1 MR. WHITE: Correct. My fault. Sorry.
2 BY MR. WHITE:
3 **Q And it appears -- if you turn to page 27 of that**
4 **exhibit.**
09:38AM 5 A Okay.
6 **Q It is signed by somebody. Who is that?**
7 A It's signed by Attorney Lyn Beggs.
8 **Q And it's also copied to somebody?**
9 A Maryanne Phillips is cc'd on it.
09:38AM 10 **Q Okay. Thank you. And is it your understanding that at**
11 **some point previously Ms. Beggs was representing Dr. Phillips?**
12 A Yes.
13 MR. WHITE: I would move to admit Exhibit 6.
14 THE HEARING OFFICER: And 6 will be admitted.
09:39AM 15 (Exhibit 6 admitted into evidence.)
16 BY MR. WHITE:
17 **Q Please take a quick look at what's been marked as**
18 **Exhibit 7, Ms. Friedman.**
19 A Okay.
09:39AM 20 **Q What do we have there?**
21 A This is a response from Dr. Salvador Borromeo to the
22 investigator at Nevada State Board of Pharmacy regarding their
23 investigation of Vida Spa.
24 **Q Okay. And I'll ask you just a few questions about that.**
09:39AM 25 A Sure.

1 **Q So it does look like it -- I guess one of the reasons it**
2 **could be here is that it mentions Dr. Maryanne Phillips in this**
3 **response; does it not?**
4 A That's correct.
09:39AM 5 **Q Okay. And this is something you compiled; is that**
6 **right?**
7 A Yes. I received a copy from the investigator at the
8 Pharmacy Board.
9 **Q Okay. And maybe to make the record a little clear, a**
09:40AM 10 **little clearer, the reason -- what is the reason we have this**
11 **response from a Dr. Borromeo?**
12 A When we conducted an initial inspection on the Vida Spa
13 facility there were concerns of how controlled substances were
14 being written and delivered to patients at Vida Spa. And
09:40AM 15 Dr. Borromeo at the time was the medical director.
16 **Q Okay. And so -- and obviously, as I mentioned before,**
17 **or the question I asked you before is Dr. Maryanne Phillips is**
18 **mentioned in this. Were you at that point sort of at the**
19 **beginning of the investigation?**
09:40AM 20 A Yes. These were the beginning stages of the
21 investigation and we were looking at, at that time, three
22 providers for that facility.
23 **Q Okay.**
24 **And you said that Ms. McClish sent you this to make it**
09:41AM 25 **as part of your investigation, too?**

1 A Correct.

2 **Q And were you, yes or no, were you with Ms. McClish on**

3 **the inspection that you have talked about?**

4 A That's correct, on October 27th.

09:41AM 5 **Q Of what year?**

6 A Of 2020.

7 MR. WHITE: 2020. Thank you.

8 I would move to admit Exhibit 7.

9 THE HEARING OFFICER: Seven is admitted.

09:41AM 10 (Exhibit 7 admitted into evidence.)

11 BY MR. WHITE:

12 **Q Please look at what's been marked as Exhibit 8,**

13 **Ms. Friedman.**

14 A Okay.

09:41AM 15 **Q Does it appear to be photos? What exactly are we**

16 **looking at there?**

17 A These are photos that I took during an on-site

18 inspection on June 23rd with the Bureau of Health Care Quality and

19 Compliance.

09:42AM 20 **Q Who were you with?**

21 A Two inspectors -- do you want me to take off my mask?

22 **Q Sure.**

23 A -- with the Bureau of Health Care Quality and

24 Compliance.

09:42AM 25 **Q And you said two inspectors from there?**

A That's correct.

Q Okay. And you also, it sounded like you mentioned that you took these photos; is that correct?

A That's correct.

09:42AM MR. WHITE: Okay. I would move to admit Exhibit 8.

THE HEARING OFFICER: 8 is admitted.

(Exhibit 8 admitted into evidence.)

MR. WHITE: Indulgence please, for a moment.

THE HEARING OFFICER: Certainly.

09:43AM BY MR. WHITE:

Q Ms. Friedman, would you turn to what's been marked as Exhibit 9.

A Okay.

Q Sort of in the title there, but what are we looking at

09:43AM **here?**

A This is a Cease and Desist Citation from the Nevada State Board of Pharmacy to Maryanne Phillips, Dr. Maryanne Phillips.

Q Okay. How did you -- well, let me ask you, did you

09:43AM **gather this during your investigation of this case?**

A Yes, I received a copy of the cease and desist from the attorney at the Nevada State Board of Pharmacy.

Q Okay. And looks like that person signed it. Was it Courtney Lee who is general counsel at the Nevada State Board of

09:44AM **Pharmacy that sent you this?**

1 A That is correct.
2 MR. WHITE: Okay. I would move to admit --
3 THE HEARING OFFICER: Nine?
4 MR. WHITE: Nine, yes.
09:44AM 5 THE HEARING OFFICER: Nine is admitted.
6 (Exhibit 9 admitted into evidence.)
7 BY MR. WHITE:
8 Q Please turn to what's been marked as Exhibit 10, please.
9 This looks a little like the last exhibit. What do we have here?
09:44AM 10 A Yes. This is also another Cease and Desist Citation
11 from the Nevada State Board of Pharmacy. It was served on
12 Vida Spa, LLC, Ms. Giselle Platfoot from Courtney Lee.
13 Q And did Ms. Lee also send you this?
14 A Yes, she did.
09:44AM 15 MR. WHITE: Okay. Move to admit Exhibit 10.
16 THE HEARING OFFICER: 10 is admitted.
17 (Exhibit 10 admitted into evidence.)
18 BY MR. WHITE:
19 Q Please take a look at what's been marked as Exhibit 11,
09:45AM **20 Ms. Friedman.**
21 Is this document familiar to you?
22 A Yes, it is.
23 Q What is this that we're looking at?
24 A This is a sedation log that was discovered during the
09:45AM 25 on-site inspection on June 23rd, 2021, with Bureau of Health Care

1 Quality and Compliance.

2 **Q So was this the same inspection where you took the**

3 **pictures that we just -- I'll start again. Sorry.**

4 A Yes.

09:45AM 5 **Q Same, same inspection?**

6 A Yes.

7 **Q Which was June 23rd, 2021?**

8 A That's correct.

9 **Q Now, I just want to establish something here a little**

09:46AM 10 **bit.**

11 **How did you find these?**

12 A Would you like me to walk you through, when I went

13 through the inspection?

14 **Q Well, you know what, I have that ready. I have some**

09:46AM 15 **questions for you about your inspections, so we'll wait until**

16 **then.**

17 **I'll just move to admit right now, but you did -- let me**

18 **ask you this question.**

19 **During your inspection, did you find these this sedation**

09:46AM 20 **log and then make it a part of your investigation of this case?**

21 A Yes. The inspection log was located on top of a

22 countertop and I did ask for copies to add to my investigation.

23 MR. WHITE: Okay. I move to admit Exhibit 11.

24 THE HEARING OFFICER: 11 is admitted.

09:46AM 25 (Exhibit 11 admitted into evidence.)

BY MR. WHITE:

Q Please take a look at what's been marked as Exhibit 12.

A Okay.

Q What are we looking at?

09:46AM A This is a list of daily procedures from Vida Spa that were received as part of some of the medical records that I received from Vida Spa.

Q Okay. And so this -- did this arrive at your office, after you had made --

09:47AM A Yes.

Q Sorry, let me just finish up -- after you had made some requests for medical records?

A That's correct. It was hand-delivered to our office.

MR. WHITE: Okay. I would move to admit Exhibit 12.

09:47AM THE HEARING OFFICER: 12 is admitted.

(Exhibit 12 admitted into evidence.)

THE HEARING OFFICER: Ms. Friedman, I'm going to ask you, I'm sure that Mr. White is going to come back to this later, but just in the interest of cutting to the chase, looking at the

09:47AM first page of Exhibit 12, which is page 50 of the Bates numbering down in the bottom right corner, you have all the different patient names and then we have a code and then the description of what the code is. There's a bunch of those.

The first several are anesthesia. And then it says

09:48AM provider, Dr. PH. In your investigation, did you discover or do

1 you have reason to believe who they are referring to there with
2 Dr. PH?
3 THE WITNESS: Yes, they are referring to Dr. Phillips.
4 THE HEARING OFFICER: And how did you determine that
09:48AM 5 Dr. PH refers to Dr. Phillips?
6 THE WITNESS: There are patient names on the left-hand
7 side that have matching records that Dr. Phillips' name is on.
8 THE HEARING OFFICER: Okay. Thank you.
9 I didn't mean to interrupt your flow, Mr. White, but --
09:48AM 10 MR. WHITE: No, it's totally okay. It's was a great
11 question. I was actually going to have it admitted first but I
12 was going to ask the same thing. So thank you.
13 BY MR. WHITE:
14 Q I'll ask -- well, let me ask you this before we leave
09:49AM **15 Exhibit 12.**
16 Ms. Friedman, do a lot of these patient names match up
17 with the medical records you were able to get?
18 A There are a few, yes.
19 Q Okay. And on those medical records we may see possibly
09:49AM **20 that Dr. Phillips was the provider on those?**
21 A Yes.
22 Q Okay. All right. I would like to ask you to turn to
23 what's been marked as Exhibit 13.
24 And what is this document?
09:50AM 25 A This is a medication log.

1 **Q Okay. And how did you -- or did you compile this as**
2 **part of your investigation?**
3 A Yes, I did.
4 **Q Was this sent to you as in response to requests for**
09:50AM 5 **records?**
6 A Yes, it does -- was.
7 **Q Okay. Now I'll note that it doesn't -- it has dates,**
8 **looks like. It has some medications listed; is that correct?**
9 A Correct.
09:50AM 10 **Q And maybe it looks like the dosage, because I see some**
11 **milliliters?**
12 A Correct.
13 **Q And also it has -- does it have patient names there?**
14 A Correct.
09:50AM 15 **Q And then to the right of that, looks like kind of**
16 **what -- what they did, so I see lipo four times at least on the**
17 **first page here.**
18 A Correct.
19 **Q And do you know who, are you able to tell what these**
09:51AM 20 **initials mean when it says "employee"? And you can see it looks**
21 **like initials KM. Do you know who those are?**
22 A Yes, I do. KM and KK are two employees of Vida Spa.
23 They are RNs. One is Kristin Molina and the other one is Kimberly
24 Kujat.
09:51AM 25 MR. WHITE: All right. Thank you. I would move to

1 admit Exhibit 13.

2 THE HEARING OFFICER: 13 is admitted.

3 (Exhibit 13 admitted into evidence.)

4 BY MR. WHITE:

09:51AM 5 **Q Please take a look at what's been marked as Exhibit 14.**

6 A Okay.

7 **Q What are we looking at here?**

8 A This is a sedation -- deep sedation or general

9 anesthesia application, signed by Dr. Maryanne Phillips.

09:52AM 10 **Q So is this an application for, I guess, for the**

11 **accreditation to do anesthesia?**

12 A Yes.

13 **Q Okay. And how did you end up with this document?**

14 A Through -- through the Med Board. Sorry, through her

09:52AM 15 licensing.

16 **Q Okay. Thank you.**

17 **So it looks like -- this is through us, and it looks**

18 **like it's dated. Looks like it's signed and dated by her. And**

19 **what's the date there?**

09:53AM 20 A May 25th, 2019.

21 MR. WHITE: Okay. I would move to admit Exhibit 14.

22 THE HEARING OFFICER: 14 is admitted.

23 (Exhibit 14 admitted into evidence.)

24 BY MR. WHITE:

09:53AM 25 **Q Now I'm going to take 15 through -- Exhibits 15 through**

47, kind of as a group.

I'll just state that these are all medical records for different patients, but they are all sort of similar in what they contain, but just different patients.

09:53AM **Ms. Friedman, as you stated before, you've had time to at least review these binders a little bit, so with regards to Exhibits 15 through 47, were these compiled -- did you compile them in your investigation of this case?**

A Yes, I did.

09:54AM **Q Okay. So again, the question is, so these medical records, were they sent to you in response to requests or subpoenas for medical records?**

A Yes, they were.

MR. WHITE: Okay. I would move -- I'm moving to admit

09:54AM 15 through 47.

THE HEARING OFFICER: All right. So for 15 through 47, they will be provisionally admitted, and then at some point, depending on what I see to be in them or not in them, I may come back later to clarify that I think some of them are not relevant;

09:54AM but obviously, there's nobody here to object. So at the very least they are provisionally admitted.

MR. WHITE: Okay.

(Exhibit 15 through 47 provisionally admitted into evidence.)

///

BY MR. WHITE:

Q Ms. Friedman, I'm going to ask to you take a look at what's been marked as Exhibit 48.

A I'm sorry, give me a moment.

09:56AM **Q Do you need a moment to look at it?**

A No, I'm good.

Q What is that document we're looking at?

A This is an official order to cease operation without a permit from the Department of Health and Human Services, Division

09:56AM of Public and Behavioral Health.

Q Okay. And what is the date on that?

A July 2nd, 2021.

Q Okay. And it looks like it's signed at the bottom?

A Yes, from Minou Nelson.

09:56AM **Q And did you compile this as part of your investigation on this case?**

A Yes, I did.

Q Was it sent to you?

A Yes, it was.

09:56AM **Q Okay. And it does appear that it's -- it is for both -- well, actually who is it addressed to who is supposed to cease operation?**

A It's addressed to Vida Spa, Dr. Phillips, at 3225 South Rainbow.

09:57AM MR. WHITE: I move to admit Exhibit 48.

1 THE HEARING OFFICER: 48 is admitted.
2 (Exhibit 48 admitted into evidence.)
3 BY MR. WHITE:
4 **Q Please turn to what's been marked as Exhibit 49.**
09:57AM 5 A Okay.
6 **Q What do we see here?**
7 A This is a Notice of Denial of Application from
8 Department of Health and Human Services, Division of Public and
9 Behavioral Health.
09:57AM 10 **Q And who is it addressed to?**
11 A It is addressed to Giselle Platfoot, Vida Spa, LLC.
12 **Q And we don't need to go through all of them right now,**
13 **but do we see a heading down there it says "facts supporting the**
14 **denial"?**
09:58AM 15 A Yes.
16 **Q Okay. And then I'll ask you to --**
17 THE HEARING OFFICER: Go ahead.
18 BY MR. WHITE:
19 **Q I'll ask you, did you compile this as part of your**
09:58AM 20 **investigation in this case?**
21 A Yes, I did.
22 **Q Did somebody send this to you?**
23 A Yes, they did.
24 **Q Do you remember who it was?**
09:58AM 25 **If you can't, that's okay.**

A I can't remember her name but she's the manager of -- she manages the two inspectors, the facility inspectors.

MR. WHITE: Okay. I move to admit Exhibit 49.

THE HEARING OFFICER: 49 is admitted.

09:58AM (Exhibit 49 admitted into evidence.)

BY MR. WHITE:

Q And please have a look at what's been marked as Exhibit 50.

A Okay.

09:59AM **Q What is this document?**

A This is a Notice of Temporary Suspension and Show Cause Hearing, suspension notification of nonrenewal of business license from the business department at Clark County.

Q And who is that addressed to?

09:59AM A It is addressed to Giselle Platfoot, Vida Spa, LLC.

Q Okay. Does it look like they gave some reasons for why they -- why they suspended their business license?

A Yes.

Q Okay. And did somebody send this to you or did you

09:59AM **somehow compile it as part of your investigation of this case?**

A Yes, that's correct.

MR. WHITE: Okay. I move to admit Exhibit 50.

THE HEARING OFFICER: 50 is admitted.

(Exhibit 50 admitted into evidence.)

///

1 BY MR. WHITE:

2 **Q Please take a look for a moment at what's been marked as**

3 **Exhibit 51.**

4 A Okay.

10:00AM 5 **Q What are these?**

6 A These are photos that I took during the on-site

7 inspection on June 23rd, 2021.

8 **Q Okay. I think we saw some of these earlier. They are**

9 **in black and white, but these are the photos you took, you said?**

10:00AM 10 A Yes.

11 MR. WHITE: Okay. I move to admit Exhibit 51.

12 THE HEARING OFFICER: 51 is admitted.

13 (Exhibit 51 admitted into evidence.)

14 BY MR. WHITE:

10:01AM 15 **Q Please take a look at what's been marked as Exhibit 52.**

16 A Okay.

17 **Q What are these? There are a few of them. What is this**

18 **that we're looking at?**

19 A These are photos that I took during the on-site

10:01AM 20 inspection on October 27th, 2021, with the Pharmacy Board.

21 **Q I will note that -- and these were taken at the on-site**

22 **inspection of Vida Spa; is that correct?**

23 A At Vida Spa, correct.

24 MR. WHITE: Okay. I move to admit Exhibit 51 -- excuse

10:01AM 25 me, 52.

1 THE HEARING OFFICER: 52 is admitted.
2 (Exhibit 52 admitted into evidence.)
3 BY MR. WHITE:
4 **Q And please have a look, Ms. Friedman, at what's been**
10:02AM 5 **marked Exhibit 53.**
6 A Okay.
7 **Q What are these that we see, these documents?**
8 A These are invoices that I received from Direct
9 Compounding and Outsourcing.
10:02AM 10 **Q Okay. Did you receive these in response to a request or**
11 **a subpoena?**
12 A Yes, I did.
13 **Q Okay. And these show you -- these are orders, it**
14 **looks -- what are these? These are orders from Vida Spa and/or**
10:02AM 15 **Dr. Phillips to Direct Compounding?**
16 A That's correct.
17 MR. WHITE: Okay. I would move to admit Exhibit 53.
18 THE HEARING OFFICER: Give me just a moment.
19 Okay. 53 is admitted.
10:03AM 20 (Exhibit 53 admitted into evidence.)
21 BY MR. WHITE:
22 **Q Please take a look, Ms. Friedman, at what's been marked**
23 **as Exhibit 54.**
24 **Put it up.**
10:03AM 25 **We're going to put it up on the screen for you,**

1 **Ms. Friedman.**

2 **Ms. Friedman, what are we seeing here?**

3 A This is a list of medications ordered from McKesson

4 Medical-Surgical, Incorporated, Maryanne Phillips, Vida Spa,

10:05AM 5 January 1st, 2019, through July 9th, 2021.

6 **Q Okay. How do we know those exact dates? Are you --**

7 A It's listed on the top of the spreadsheet.

8 **Q Okay. Now, how were these -- well, first of all, were**

9 **these sent to you in response to a request or an order or subpoena**

10:05AM 10 **of some sort?**

11 A Yes. Yes.

12 **Q Okay. And this is a pharmacy; is that correct?**

13 A Yes.

14 **Q Okay. And how were these sent to you?**

10:06AM 15 A This spreadsheet was sent to me through email.

16 **Q Okay. At the moment you don't see the email, the actual**

17 **email, but we will get it.**

18 **But you did receive it in an email; correct?**

19 A Correct.

10:06AM 20 MR. WHITE: Okay. And -- indulgence, please.

21 THE HEARING OFFICER: Sure.

22 MR. WHITE: All right. Thank you, Ms. Friedman.

23 BY MR. WHITE:

24 **Q So this was sent directly to you in an email which we**

10:07AM 25 **will show in a moment.**

1 A Yes.

2 **Q Is that correct? Okay. All right.**

3 MR. WHITE: I would move to admit Exhibit 54. And if

4 you want to do it provisionally, we'll get the email right now

10:07AM 5 too.

6 THE HEARING OFFICER: 54 will be admitted.

7 (Exhibit 54 admitted into evidence.)

8 MR. WHITE: Okay. Then with regards to Exhibits 55

9 through 89, the same questions I had for Ms. Friedman before.

10 BY MR. WHITE:

11 **Q Ms. Friedman, so at the time of compiling these records**

12 **requesting or subpoenaing these records, were you investigating**

13 **more than just Dr. Phillips?**

14 A Yes, I was.

10:08AM 15 **Q Okay. So you were investigating Vida Spa and some other**

16 **providers, like you stated before; is that right?**

17 A That's correct.

18 **Q Okay. But these were in response to, like I said,**

19 **either some order or request or subpoena in your investigation of**

10:08AM 20 **this case also, for Dr. Phillips; is that right?**

21 A That's correct. That's correct.

22 MR. WHITE: I would move to admit Exhibit 55 through 89.

23 THE HEARING OFFICER: And so I'm going to make the same

24 clarification for the record.

10:08AM 25 MR. WHITE: Okay.

1 THE HEARING OFFICER: Those are going to be admitted
2 provisionally until I actually have a chance to look at them. And
3 if for whatever reason later on I determine that they are just not
4 relevant or that there is some other evidentiary problem with
10:09AM 5 them, I'll make that clear in the record.
6 I don't anticipate that, but for now I'm just going to
7 say that they are provisionally admitted.
8 MR. WHITE: Thank you.
9 (Exhibits 55 through 89 provisionally
10:09AM 10 admitted into evidence.)
11 BY MR. WHITE:
12 Q Last one. Please take a look, Ms. Friedman, at what's
13 been marked as Exhibit 90.
14 A Okay.
10:09AM **15 Q What do you have in front of you, Ms. Friedman, can you**
16 tell us?
17 A Yes, it's a subpoena duces tecum that I created for
18 Vida Spa, LLC, or authorized representative, in the matter of the
19 investigation of Maryanne Phillips, for properly authenticated and
10:10AM 20 complete copies of any and all health care records of all 72
21 patients listed on the sedation log sheet attached as Exhibit 1.
22 Q And you personally sent this to Vida Spa?
23 A I hand-delivered it.
24 Q Okay. And it looks like we have -- let's see. One
10:11AM **25 second.**

1 **Did you also do an affidavit of service?**
2 A Yes.
3 **Q Okay. For some reason I can't find that. Oh, here it**
4 **is, at the very back.**
10:11AM 5 **Is that what we see on page 2329?**
6 A Correct.
7 **Q Okay. Also, did you -- looks like you attached**
8 **something. What did you attach as an exhibit so that they would**
9 **be able to fulfill your request?**
10:11AM 10 A I attached a copy of the sedation log that had been
11 discovered on the June 23rd, 2021, inspection, on-site inspection
12 at Vida Spa.
13 **Q Okay. And so you were primarily going -- you were**
14 **trying to find the medical records for all of these 72 patients;**
10:12AM 15 **is that a fair assessment?**
16 A That's correct.
17 **Q Okay. Would those be the medical records that right now**
18 **have been provisionally admitted into the record?**
19 **When I speak about that, I'm talking about Exhibits 15**
10:12AM 20 **through 47 and Exhibits 55 through 89.**
21 A That's correct.
22 **Q Okay. So those names match up to -- just to clarify it**
23 **a little bit, those names on the sedation log that you were**
24 **requesting match up to the medical records, the vast amount of**
10:13AM 25 **medical records we have right now as those exhibits?**

1 A That's correct.

2 **Q Well, just for instance, I don't want to mention any**

3 **medical -- any patient's names, but if you take a look at the**

4 **first one on page 2325, and really, in date, it's not the first**

10:13AM 5 **one, but I just want to take a look.**

6 **We have a patient with the initials GV, and I think we**

7 **can find that person in here.**

8 **If you look at exhibit -- you don't even have to look at**

9 **the whole exhibit, but we have an exhibit list here. Is that the**

10:14AM 10 **same person who is part of Exhibit 23, GV?**

11 A Yes.

12 **Q Okay. Some of them are hard to read. Let's go down to**

13 **the bottom of the page. We have EG. Looks like she's on this**

14 **sedation log sheet with a date of 6/23/21.**

10:14AM 15 A Correct.

16 **Q And is that the same person who is in Exhibit 37?**

17 A That's correct.

18 MR. WHITE: Okay. Move to admit this is Exhibit 90.

19 THE HEARING OFFICER: 90 is admitted.

20 (Exhibit 90 admitted into evidence.)

21 THE HEARING OFFICER: And just so you know, Mr. White,

22 this testimony wipes out most of what I've said is provisional

23 admission of the others. I'll wait till I actually get a chance

24 to look at all of those --

10:15AM 25 MR. WHITE: Okay.

1 THE HEARING OFFICER: -- but that ties it together for
2 me.
3 MR. WHITE: Yeah, I think if I can just kind of narrow
4 it for just one moment, I want to explain, I'm not going to go
10:15AM 5 through every patient with Ms. Friedman.
6 THE HEARING OFFICER: I understand.
7 MR. WHITE: I just wanted -- I think we all wanted to
8 show the impact of why we're here today for a summary suspension
9 hearing.
10:15AM 10 THE HEARING OFFICER: I get it.
11 MR. WHITE: That's why you see that many patients'
12 separate exhibits.
13 THE HEARING OFFICER: You are talking about a lot of
14 people.
10:15AM 15 MR. WHITE: Yeah.
16 THE HEARING OFFICER: If what was happening was
17 inappropriate, it happened a lot, is the point, I guess.
18 MR. WHITE: Okay. All right. Thank you.
19 You know, I'm going to call an audible right now.
20 THE HEARING OFFICER: Good.
21 MR. WHITE: We have our -- well, we can take a break
22 too.
23 I have another witness that's here. We can maybe -- I
24 was going to go through all of Ms. Friedman, I have a few more
10:15AM 25 things to ask her, but I think I'm going to bring, when we come

1 back from the break, if it's okay, going to call the other witness
2 and then have Ms. Friedman come back.
3 THE HEARING OFFICER: I don't have any concerns with
4 that, but I was looking at the clock and thinking that our
10:16AM 5 reporter is probably ready for a break, and so it's a good
6 breaking point. And I don't have any concerns about calling
7 another witness and then bringing Ms. Friedman back.
8 Ms. Friedman, you just need to hang around. And again,
9 don't talk -- don't discuss your testimony with anybody else who's
10:16AM 10 a potential witness in the case.
11 THE WITNESS: Okay.
12 MR. WHITE: You okay with that, Ms. Friedman? You're
13 okay with delaying the rest of your testimony?
14 THE WITNESS: Yeah. Yes. Just give me a call again and
10:16AM 15 I'll come back in when you are ready.
16 MR. WHITE: Thank you. We're going to take about a
17 10-minute break?
18 THE HEARING OFFICER: Yeah.
19 MR. WHITE: Yeah, okay. Thank you.
10:16AM 20 And you said 90 was admitted, right? I didn't put my
21 little mark.
22 THE HEARING OFFICER: Yes. 90 is in, which is -- that's
23 all of your exhibits at this point?
24 MR. WHITE: Yes.
10:16AM 25 THE HEARING OFFICER: Okay. So all of your exhibits are

1 admitted. And with that let's go off the record.
2 (A recess was taken.)
3 THE HEARING OFFICER: Back on the record in the matter
4 of investigation of Maryanne DeForest Phillips, M.D. We just
10:33AM 5 finished up with the initial testimony of Ms. Friedman, and
6 Mr. White has let me know, I think he still intends to call a
7 different witness and then come back to Ms. Friedman.
8 Is that still the plan?
9 MR. WHITE: Yes.
10:33AM 10 THE HEARING OFFICER: All right. Unless you have any
11 other housekeeping that has come up during the break, you can call
12 your next witness.
13 MR. WHITE: I am going to call my next witness.
14 Hold on one second here. I'm getting some messages from
10:33AM 15 down south. Sorry about that.
16 THE HEARING OFFICER: That's all right.
17 MR. WHITE: I am going to -- this is a former patient.
18 I'm going to explain really quick. This is a former patient of
19 Dr. Phillips.
10:34AM 20 Typically, as you know, Mr. Woodman, we keep those names
21 confidential, usually referred to in a patient designation,
22 right? Along with the complaint.
23 THE HEARING OFFICER: Right.
24 MR. WHITE: Patient designation we do not have yet for
10:34AM 25 the complaint, which we will have, obviously, but she is one of

1 those patients listed in the complaint.

2 I'm going to try and keep her identity confidential. I

3 can refer to her as the witness we see in Exhibit 22, or, excuse

4 me, the patient we see in Exhibit 22.

10:34AM 5 The other way I can do it is, Court Reporter, if Madam

6 Court Reporter feels more comfortable swearing her in with her

7 actual name, but if -- we can do that, or if we can maybe strike

8 it or redact it, we can do that.

9 THE HEARING OFFICER: Let's do that. We'll use her name

10:35AM 10 just for swearing in purposes, and then we'll have our reporter

11 redact her name and we'll just refer to her as the patient from

12 Exhibit 22.

13 MR. WHITE: Yeah, or -- exactly. Or we can make her --

14 she can be Patient A, when we have patient designation, or I can

10:35AM 15 refer to her as Patient A.

16 THE HEARING OFFICER: That's fine.

17 MR. WHITE: We'll make her -- that's perfect. She'll be

18 Patient A.

19 Let me text them. Is she down there ready to go?

10:35AM 20 UNIDENTIFIED SPEAKER: Yes.

21 MR. WHITE: If you can bring her in, that would be

22 great.

23 THE HEARING OFFICER: Ma'am, can you hear me all right?

24 PATIENT A: Yes, sir.

10:36AM 25 THE HEARING OFFICER: Ma'am, I'm Charles Woodman. I'm

1 the hearing officer assigned to this case. We're in the Medical
2 Board's office up in Reno. I think you're either the only person
3 in that room or almost the only person in that room, so if you
4 want to take your mask off, I think you can feel free to do that.
10:36AM 5 It will probably help our court reporter here who needs to hear
6 what you're saying.
7 PATIENT A: Okay. Yes, sir. That's fine.
8 THE HEARING OFFICER: Thank you, ma'am. I'm going to
9 have you begin just by raising your right hand, and our court
10:37AM 10 reporter will swear you in so that you can testify as a witness in
11 this case.
12
13 PATIENT A
14 called as a witness, having been duly sworn,
15 testified remotely as follows:
16
17 THE WITNESS: Yes.
18 THE HEARING OFFICER: Thank you, ma'am.
19 And, ma'am, I'm going to have you state your name for
10:37AM 20 the record, but then I want you to know, because it is Board
21 policy and there's law to support it, we're going to keep your
22 name out of the record. It will be redacted, but it needs to be
23 there once officially and then we're going to refer to you after
24 that as Patient A. But could you state and spell your name,
10:37AM 25 please, first and last name.

1 THE WITNESS: Yes, sir. My name is XXXXXXXXXXXX,
2 spelled XXXXXXXXX. Last name is XXXXXX as in XXXXX, XXXXX as in
3 XXXXXX.
4 THE HEARING OFFICER: Thank you very much, ma'am. And
10:38AM 5 again, if you hear us talking about Patient A, we're talking about
6 you. All right?
7 THE WITNESS: Yes, sir.
8 THE HEARING OFFICER: Again, we've -- it's strange in
9 the sense that we want to make sure we know who you are in the
10:38AM 10 record, but we're also -- when the record is printed out, your
11 name will be redacted.
12 THE WITNESS: Yes, sir.
13 THE HEARING OFFICER: All right. Mr. White now will
14 start to ask you questions.
10:38AM 15 MR. WHITE: Thank you, Patient A.
16
17 DIRECT EXAMINATION
18 BY MR. WHITE:
19 Q My name is Don White. I'm the attorney for the
10:38AM **20 Investigative Committee and for the Board. And just to let you**
21 know, I am the person that we spoke briefly last week on the
22 phone.
23 A Okay.
24 Q Okay. I'm just going to ask you a few questions about
10:39AM **25 what you experienced, but I want to establish some things first.**

1 **Okay?**

2 A Okay.

3 **Q So were you a patient at Vida Spa?**

4 A Yes.

10:39AM 5 **Q Okay. And more specifically, were you a patient of**

6 **Dr. Phillips?**

7 A Yes.

8 **Q Okay. I'd like to ask you just to briefly explain to us**

9 **what brought you here today.**

10:39AM 10 A Well, my massage therapist, she knew where I had got my

11 surgery done at, and she seen in the news that they had shut down.

12 And I had said, "Wait. What? Why?"

13 She had then told me, well, one of the doctors there,

14 they were giving a drug that wasn't supposed to be given during

10:40AM 15 sedation and they were trying to cover up, as well as the business

16 wasn't licensed for surgeries such as the BBL or anything

17 invasive.

18 So I said, "Oh, no way." And then I automatically

19 thought nobody's talked about it being my doctor, anything like

10:40AM 20 that.

21 So then at that time, my best friend and my daughter

22 were there while I was getting my massage, they looked it up and

23 it turns out it was my doctor and it was her assistant, that were,

24 in fact, doing that.

10:40AM 25 **Q Okay. Let me clarify something. What do you mean when**

1 **you say "BBL"?**

2 A So I had bought liposuction -- I'm sorry -- Lipo 360,

3 along with the BBL, so with a fat transfer.

4 **Q Is BBL the initials for, sometimes what you hear --**

10:40AM 5 A Yes.

6 **Q -- around --**

7 A I'm sorry.

8 **Q -- what is that, initials?**

9 A I'm sorry. It's a Brazilian butt lift.

10:41AM 10 **Q Thank you. Thank you.**

11 **Patient A, just this is -- I know you've probably**

12 **never -- you may not have been in a situation like this where**

13 **you're sitting on a witness stand, albeit it's a little less**

14 **formal than a courtroom, but I'm just going to ask you that -- and**

10:41AM 15 **I'm going to do the same, I'm going to be courteous too, we have**

16 **to be courteous to the court reporter. Let's try not to talk over**

17 **one another; okay?**

18 A Yes.

19 **Q She can only take down one voice at a time.**

20 A Okay.

21 **Q And I will do my best too.**

22 **Okay. So you had referred to your massage therapist as**

23 **telling you they had been shut down.**

24 **Are you aware of how she knew that?**

10:41AM 25 A No.

Q Okay.

A Oh. I'm sorry. Yes, she told me, through the news.

Q So she saw something on TV?

A Yes.

10:41AM **Q So I think you kind of started to mention it, but, for what exactly did you pay Dr. Phillips and Vida Spa, what did you pay to have done?**

A It was a Lipo 360 with fat transfer. Also it would be the Lipo 360 and BBL, Brazilian butt lift.

10:42AM **Q Okay. When you say Liposuction 360, or Lipo 360 for short, do you understand what that means?**

A To my understanding, the day that I got there, the doctor told me that she was going to be taking fat from parts of my body and transferring it into my bottom.

10:42AM **Q Okay. And does Lipo 360 refer to -- when they say 360, does that mean they are going to take fat away from your entire -- the circumference of your body around your waist and your back?**

A Yes, they can take it from numerous places. From what she told me, they could take it from my chin, my arms, my thighs,

10:43AM my back, so wherever they feel it's easier for them to grab it where I need it.

Q And did you ask for all those other things or just the Lipo 360?

A No, I asked for the BBL. Everything else she pretty

10:43AM much just marked up my body the day of and just said this is where

we're taking it from. And that's what she did.

Q Okay. You have some binders in front of you. We only really need one. It's the one that says Volume 1 on it.

Do you see that in front of you? Or, actually, are you

10:43AM **already turned to Exhibit 22?**

A Oh, can I change it?

This one?

Yes, sir.

Q Okay. Thank you.

10:44AM **Now, just for further identification purposes, do you see the first page of that, and does it say Vida Spa, Appointment Cancellation Policy for Vida Spa?**

A Yes, sir.

Q And I want you to go down to the bottom of the page. Is

10:44AM **that your signature or somebody else's signature?**

A That is my signature, sir.

Q Okay. And then below it, looks like you printed your name too?

A Correct, sir. Yes.

10:44AM **Q And also a date of, looks like May 20th, 2021?**

A Yes, sir.

Q And just to get that out of the way, was that also the day of your surgery?

A Yes, sir.

10:44AM **Q And so were -- well, we'll get to that in a second.**

So I'm going to try to take you through your entire experience, from start to finish. It shouldn't take too long but I do want to start with the beginning.

And so I want to know, first of all, how did you find
10:45AM **out about Vida Spa?**

A Through Instagram, through social media.

Q Okay. So was it some kind of public page that they had, that they used for advertising?

A Yeah, they came up in my news feed.

10:45AM **Q News feed. Yeah. So it came up in your news feed, and did you click on that and start reading about Vida Spa?**

A Yes, sir. That's correct.

Q And how did you determine that Vida Spa was going to be the place that you were going to go for this type of surgery?

10:46AM A So I was looking around and they were here in Vegas, and so I looked at everything that they were posting. And everything looked so good, so easy, so then I decided to contact them.

And then that's when they went ahead and they -- I asked them how much. They gave me a price.

10:46AM Then when I finally decided to go ahead and go through it, I called and made an appointment and I went in.

Q Okay. Let's just back up a little bit though. Did you, were there comments or reviews to look at in the Instagram feed that you say you looked at?

10:46AM A Yes.

1 **Q Did you take a look at those?**
2 A I did.
3 **Q Okay. And those, did those appear to be good reviews,**
4 **good comments that eventually drew you to go to Vida Spa?**
10:47AM 5 A Yes.
6 **Q You had said you were looking around at other places**
7 **too. Is that what you just mentioned?**
8 A Yes.
9 **Q Okay. And was Vida Spa less expensive, the same or more**
10:47AM 10 **expensive than the other ones you were looking at?**
11 A It was way less.
12 **Q Way less.**
13 A Yes.
14 **Q Give us a range, so -- I mean, we can look at what you**
10:47AM 15 **paid.**
16 A Yes.
17 **Q Give me a moment, here.**
18 **I would like you to turn to page 261 of the exhibit.**
19 **You'll see some numbers at the bottom right.**
10:48AM 20 A Yes, hang on a second.
21 Yes, I do see it, sir.
22 **Q Do you see it? Okay.**
23 **If you look in the upper right portion there, you see**
24 **where it says there was a deposit made?**
10:48AM 25 A (Nodding head affirmatively).

1 **Q Hard to read, but what is that? How much did you pay**
2 **for a deposit?**
3 A A thousand dollars.
4 **Q Okay. And then it looks like the estimated price is how**
10:48AM 5 **much?**
6 A It says -- I'm not sure if it says 6,650.
7 **Q Okay. That's what I see too.**
8 A Yeah.
9 **Q So is that what it ended up being?**
10:49AM 10 A No.
11 **Q The price was more or less?**
12 A It was less.
13 **Q Okay. All right. Were you required to pay the balance**
14 **on the day of surgery?**
10:49AM 15 A Yes, sir.
16 **Q Okay. And I guess I probably ought to point out that**
17 **this, this piece of paper we're looking at with this estimate on**
18 **here, what is the date on the left, upper left portion?**
19 A 3/18/21.
10:49AM 20 **Q Was that, to the best of your recollection, is that the**
21 **first time you went in to see anybody at Vida Spa?**
22 A Yes, sir. That was my only consultation.
23 **Q Okay. And just so we can clear it up, is that your**
24 **name? It says patient name right below it.**
10:50AM 25 **Without reading your name, is that your name?**

1 A Yes, sir.

2 **Q Okay. All right.**

3 **So what did you end up paying for the procedure?**

4 A So I ended up paying, when I got there, 5,500.

10:50AM 5 **Q Okay. So they gave you, looks like, by my math, looks**

6 **like they gave you about a $150 discount, from the estimate?**

7 A That was, when I got -- can I answer that in like how it

8 happened?

9 **Q Yes. I'll stop you if anything --**

10:50AM 10 A Okay. Yes, sir.

11 So when I got there, they did tell me it was going to be

12 6,650. And I said, "She told me at my consultation that it was

13 6500 in total."

14 And she said, "Oh." And then got quiet. She talked in

10:51AM 15 Spanish, which I don't know what was being said to the other lady,

16 and then they said, "Okay." And that was it.

17 **Q Okay. All right. So they basically honored something**

18 **that maybe was a verbal -- something told to you verbally before**

19 **that?**

10:51AM 20 A Yes.

21 **Q Okay. Thank you. Thank you for that clarification.**

22 **So I think we just established that the first date that**

23 **you went there, I just want to make sure for the record, the first**

24 **date that you went there was March 18th, 2021?**

10:51AM 25 A Yes, sir.

1 **Q Okay. And that's when you initiated contact; before**
2 **that you had not spoken to anyone with Vida Spa?**
3 A No.
4 **Q Who did you speak with, if you can recall?**
10:51AM 5 A The day of my consultation it was, I believe, the
6 manager, or maybe owner, Giselle.
7 **Q Would that be Ms. Giselle Platfoot?**
8 A Yes.
9 **Q Okay. Did you speak with anyone else?**
10:52AM 10 A No.
11 **Q Okay. Take us through a little bit about that**
12 **conversation, and I'll ask you the questions.**
13 **Did Ms. Platfoot have you disrobe and look at you or**
14 **anything?**
10:52AM 15 A It was weird. At the very end she did, after she talked
16 to me.
17 **Q So she -- just for clarification. She talked to you.**
18 **Did you guys talk about price?**
19 A Yes.
10:52AM 20 **Q Okay. And did you talk about what the procedure would**
21 **be?**
22 A Yes.
23 **Q And did you talk about any kind of sedation being**
24 **offered for that procedure?**
10:53AM 25 A No.

1 **Q Okay. And did you have a concern at that point about**
2 **how that would be done without any sort of sedation or some other**
3 **way of, kind of, keeping down the pain?**
4 A She told me that, the day of my consultation, I asked
10:53AM 5 her about the down time. She said two weeks is what I would be
6 down for, maybe less, when I can go back to work. She did not
7 discuss to me about any sedation.
8 **Q Okay. And did she explain to you exactly what can be**
9 **expected or what the procedure is of a liposuction?**
10:53AM 10 A To my recollection, kind of. It wasn't -- it was very
11 vague. It was more like we're going to do Lipo 360. It can be
12 from your torso or your inner thighs, your thighs, your back, your
13 arms, even your chin. That's what she told me.
14 **Q So did she explain to you how they remove that fat from**
10:54AM 15 **those areas?**
16 A No.
17 **Q So fair to say that you were at that point not aware**
18 **that there would be what's called a cannula or what looks like**
19 **kind of a wand that would be under your skin, sucking fat out of**
10:54AM 20 **your body?**
21 A I was aware of it because I was already doing research
22 of what, how the procedure is, but not done -- but not told by
23 her, no.
24 **Q And did she mention that there would be incisions --**
10:54AM 25 **small -- but incisions to get that wand or cannula inside, under**

your skin?

A No.

Q Okay. And then going back to -- she asked you to disrobe at some point?

10:55AM A She didn't ask me to disrobe. I was wearing a loose dress. And it was literally the end of our conversation, I was already starting to walk out the office. She asked me, "Can you do me a favor? Can you lift up your dress for me?"

And so I -- she said, "Just so I can see like what it

10:55AM is, what you would need."

So I lifted up my dress and she said "Oh, okay. You are a perfect candidate for what you're doing."

Q Okay. Did you see -- I think you've answered this, you didn't really talk to anyone else. Did a nurse come by and take a

10:55AM **look at you and diagnose what you needed to have done in this procedure?**

A No, sir. That was the end of it.

Q Did you see Dr. Phillips at that point? Did she come out or was she present to take a look at you and diagnose you?

10:55AM A No, sir, I had no idea who was even going to do my surgery. Literally, it was very vague. And I honestly thought they were going to call me for another consultation because it was month away, but not one word.

Q Okay. And I think we'll get to that in a little bit

10:56AM **too, but let me ask you, if you can, estimate the amount of time**

you think you spent in Vida Spa during that first visit when you spoke with Ms. Platfoot.

A The consultation itself was maybe, max, 10, 15 minutes, and that's even pushing it.

10:56AM **Q Okay. Would you be able to recognize Ms. Platfoot if you saw her?**

A Yes, sir.

Q Okay. So March 18th, you had this consultation you just spoke about.

10:57AM **Oh, at the end of it, did they give you any paperwork?**

A Yes.

Q What, if you can remember, what did Ms. Platfoot give you as paperwork after the consultation?

A Well, after I made my thousand dollar deposit she gave

10:57AM me my blood work paperwork to go to the lab, I guess, that they work with. And then it was just a list of items that I would need for the surgery, for aftercare.

Q Okay. And to the best of your recollection, when was your surgery scheduled -- or, actually, let me ask this first.

10:57AM **Let me establish this.**

Did you make an appointment or did somebody make an appointment for you, for your surgery, before you left that day on the 18th of March?

A Yes, sir.

10:58AM **Q Okay. Who was that?**

1 A It was the receptionist, and Giselle was standing right
2 next to her.
3 **Q What was the date that they gave you for your surgery?**
4 A The original date was 5/10, I believe at 10:30 a.m.
10:58AM 5 **Q May 10th at 10:30 a.m.?**
6 A Yes.
7 **Q Okay. And jumping ahead a little bit, when did you**
8 **actually have the surgery?**
9 A May 20th.
10:58AM 10 **Q So what, if you know, what was the cause of the 10-day**
11 **pushback, for lack of a better term?**
12 A Well, I didn't get approved for the 10th for my vacation
13 time. So I called them immediately, I think it was like maybe
14 two, three weeks max after I had already scheduled it.
10:58AM 15 And they said the only opening they had was for May 20th
16 at 10:30 a.m., so I took that appointment.
17 **Q Okay. If you recall, do you know what day you went --**
18 **well, did you go get your blood work as instructed by Vida Spa?**
19 A Yes, sir, I did.
10:59AM 20 **Q Okay. And I ask you to turn to page 250 of Exhibit 22.**
21 **Does that appear -- well, you see a name of a laboratory at the**
22 **top is -- it says Clinical Pathology Laboratories. Is that where**
23 **you went?**
24 A Yes, sir.
11:00AM 25 **Q And it looks like -- it's hard to read. Do you recall**

1 what date you went?
2 A I believe it was maybe the 14th.
3 Q Okay. Of?
4 A Of May.
11:00AM 5 Q Okay. Thank you.
6 Oh, you're right. Let's turn to page 253. I see a much
7 better copy of something here.
8 A Okay.
9 Q Do you see where it says collection date and time? Sort
11:00AM 10 of the middle, about one-third down the page?
11 A Yes.
12 Q Okay. What date do you see there?
13 A I'm so sorry.
14 Q I'll just call it out for you. You see where it says
11:01AM 15 May 12th, 2021?
16 A Yes.
17 Q Okay. So you're -- yeah, right in that date. Okay.
18 A Okay.
19 Q And it looks like it was reported on May 14th, 2021.
11:01AM 20 Okay.
21 So you did do as you were told, from Vida Spa, to go get
22 your blood work done.
23 A Yes.
24 Q During the time between -- other than you calling them
11:01AM 25 to talk to them about changing your appointment, because you

didn't get the time off from work, did anybody from Vida Spa contact you at all between March 18th and May 20th?

A Yes, sir.

Q Okay. Who called -- who contacted you?

11:01AM A I believe it was the receptionist. They tried to reschedule my appointment from May 20th to May 13th.

Q Okay. So it was going from -- originally it had gone from May 10th to May 20th, now they were trying to move it up a week?

11:02AM A Yes, sir.

Q Okay. And did they give you a reason why or anything?

A They just told me the doctor had something to do.

Q Okay. And so they needed to schedule you that because of the doctor's schedule, the best to your knowledge?

11:02AM A Yes, sir.

Q And what became of that date?

A I couldn't go. I couldn't. My boss didn't approve my vacation a week early.

Q Okay. So at that point did you just end up keeping the

11:02AM **May 20th date at 10:30 a.m.?**

A First, they were trying to cancel it. And then I said no, this is not something -- this is not a normal procedure, this is something I need time off for. I was already granted the 20th for two weeks. So I said is there anything that we can do?

11:03AM And then they said, well, let me call you back.

1 About an hour later, Giselle called me back and said can
2 you come in at 5:30 in the evening instead. And I said is that
3 normal, for me to be there that late? She said yes. The doctor
4 is willing to come back in and do it on that date, because of your
11:03AM 5 work schedule.
6 So I said okay, that's fine.
7 Q Okay. And so other than maybe the doctor having some
8 sort of other -- other engagement or something, you have no idea
9 why they cancelled your time that you wanted on the 20th of May at
11:04AM **10 10:30 a.m.?**
11 A Correct, sir.
12 Q Okay. Now, was that the only contact that you had with
13 Vida Spa, between the dates of March 18th and May 20th?
14 A I had called numerous times about my blood work because
11:04AM 15 they would not let me know anything, if my blood was okay, if I
16 was good enough to do the surgery.
17 I was the one calling them; but for them reaching out,
18 no, not one phone call.
19 Q Okay. That was going to be my follow-up question. So
11:04AM **20 they never reached out to you?**
21 A No, sir.
22 Q Except for the moving around of the appointments, that
23 was it?
24 A Correct, sir.
11:04AM **25 Q Never reached out to you to check on you, see how you**

1 **were doing?**
2 A No.
3 **Q Never reached out to you to even ask if you were still**
4 **ready and willing to go through the surgery?**
11:04AM 5 A Not, no, not a phone call. No, sir.
6 **Q Okay. Give me one moment. I'm sorry.**
7 **So is it fair to say your next visit to Vida Spa was the**
8 **day of your surgery on May 20th, 2021?**
9 A Yes, sir.
11:05AM 10 **Q Did you arrive at 5:30 p.m.?**
11 A Yes, sir. Maybe a little bit before.
12 **Q Okay. Did you drive there yourself? Did you have**
13 **somebody drop you off? How did that go?**
14 A No, my best friend and my daughter. My best friend
11:05AM 15 drove me and my daughter. They came in the building with me.
16 **Q When you walked in, was the -- well, first of all, was**
17 **the door unlocked or locked at 5:30 p.m.?**
18 A It was unlocked, sir.
19 **Q So you walked in at that point, and you said you had**
11:06AM 20 **your best friend and your daughter with you?**
21 A Correct, yes, sir.
22 **Q Did you -- who did you see?**
23 A There was about three or four receptionists at the front
24 counter.
11:06AM 25 **Q Okay.**

1 A That's who I saw.
2 **Q I think you cut out for a second there. Sorry.**
3 **So three to four receptionists?**
4 **Not your fault.**
11:06AM 5 A Yes, sir. At the front counter, three to four
6 receptionists at the front counter.
7 **Q All right. And were there any other patients there? If**
8 **you know.**
9 A It's my recollection maybe one was leaving. One was
11:06AM 10 leaving when I was walking in.
11 **Q Okay. Was Giselle Platfoot there?**
12 A Yes. Yes, sir.
13 **Q Did you have an opportunity to speak with her?**
14 A She came in while the doctor was marking up my body for
11:07AM 15 the surgery.
16 **Q Okay. So did you wait in the waiting room for a little**
17 **bit first?**
18 A I did. I was filling out paperwork.
19 **Q All right. And, well, let's turn to some of that**
11:07AM 20 **paperwork. I'd like you to turn to page 228 in the -- in**
21 **Exhibit 22.**
22 **Again, looks like your name is near the top of that?**
23 A Yes, sir.
24 **Q All right. And could you read to me what this paper,**
11:08AM 25 **this page 228 is titled? It's the bold print.**

1 A Consent For Surgery and Procedures.
2 **Q Consent For Surgery and Procedures. Okay. And also**
3 **looks like what you described before, it's written in, Lipo 360,**
4 **fat transfer to butt. That's what they wrote; correct?**
11:08AM 5 A Correct. Yes, sir.
6 **Q And did you sign it and print your name at the bottom?**
7 A Yes, sir.
8 **Q And the date, as you just described, is the day of your**
9 **surgery, 5/20, 2021?**
11:08AM 10 A Yes, sir. That's correct.
11 **Q Is this paperwork you referred to when you say you were**
12 **filling out paperwork right before your surgery?**
13 A Yes, sir.
14 **Q Was this Consent For Surgery and Procedures ever shown**
11:08AM 15 **to you or given to you before this date? Was it given to you --**
16 **sorry. Let me strike that.**
17 **Was it given to you on March 18th, 2021?**
18 A No, sir.
19 **Q Okay. And at no time between March 18th and May 20th,**
11:09AM 20 **was this handed to you so you could review it?**
21 A Correct, sir. Nothing was given to me until that date.
22 **Q Fair to say then, this is the first time you are**
23 **reviewing and signing these documents, was moments before your**
24 **surgery?**
11:09AM 25 A Yes, sir. That's correct.

1 **Q All right. And then when you're done filling out the**
2 **consent for surgery, what happens? Is that when you go back to**
3 **the room where they did surgeries?**
4 A Correct. Yes, sir. The doctor came in while I was
11:09AM 5 filling out paperwork, as well as I was paying for the procedure.
6 So I was having a little bit of trouble paying for the -- well, my
7 bank only went for 5,000, and I had to pay 5,500. So I was on the
8 phone with my bank so they can approve the extra 500 so they can
9 push it through.
11:10AM 10 So I was waiting on the phone and I seen Dr. Phillips
11 and I believe a lady walking with her to the back.
12 **Q Okay. And eventually, you finished up payment, you**
13 **finished signing the sheets, the consent form that we see here,**
14 **and did somebody lead you to the room, to the back?**
11:10AM 15 A Yes, Dr. Phillips and -- I believe it was her assistant,
16 she was the one who assisted the whole time. She was standing
17 next to me while I was filling out the paperwork, as well as when
18 it was time, her and Dr. Phillips walked me to the back room.
19 **Q Okay. Give us a little bit of a description. Is it --**
11:10AM 20 **is this a big place or a small place? Where is the room located**
21 **in regards to the front desk?**
22 A I definitely -- when I first got in there, I didn't
23 think the surgery was done there. I really thought it was located
24 somewhere in that facility, but when they walked me straight to
11:11AM 25 the back, there's two rooms and my room was to the left. And when

1 I walked into the room, it was -- it would look like the same size
2 of a bedroom, to be honest. There was a bathroom inside the room,
3 and all, when you walk in, is like a divider, and it was black and
4 white. And I believe that's where she marked me up when I got
11:11AM 5 undressed, and that's where she would take the photos for us.
6 But on there was just a table where they were going to
7 do the procedure. And, literally, that's all that was in there
8 except for the machine she was going to use for the procedure.
9 Q Okay. I'm going to ask you a follow-up question in a
11:12AM **10 moment but something just happened with our picture.**
11 Why did the picture get smaller?
12 MS. BYRD: Excuse me. Las Vegas, can we widen the
13 picture, please?
14 BY MR. WHITE:
11:12AM **15 Q Sorry, Patient A. You just got a lot smaller on our**
16 screen, so we're trying to adjust the frame back to the way it
17 was. Give us a moment.
18 A No worries.
19 Q While we're doing that, I'll forge ahead.
11:12AM **20 Patient A, so you described the room to us very well. I**
21 want to ask you kind of how you were feeling, what was going
22 through your mind when you saw that room.
23 A I was scared. I was very, very scared, and at that time
24 kind of concerned, because I did ask the doctor, "This is where
11:13AM 25 you're going to do the procedure?" And she said yes. I said,

1 "And this is normal?" She said yes. She said they do so many of
2 these a day, so for me not to be scared.
3 **Q And did you have any concerns about there being just not**
4 **very much equipment in the room?**
11:13AM 5 A I did, but she said that that's normal, that what I was
6 getting done wasn't anything like a major surgery, is what she
7 said. It wasn't anything very invasive.
8 **Q And then at some point did she just point out we have**
9 **what we need, did she point out the machine that she was going to**
11:13AM 10 **use for the liposuction?**
11 A Yes, sir. She said this is the only machine we need,
12 this is what we're going to use on you. That's how simple it is.
13 **Q You know what, I want to bounce back to something, just**
14 **really quick, and then we'll come back to where we were in the**
11:14AM 15 **room.**
16 **I don't think I asked a follow-up question. As far as**
17 **the consent forms go, would that have been something you would**
18 **have liked to have had earlier so you could have reviewed it, and**
19 **signed it, bring it back to them, with a little more time?**
11:14AM 20 A Yes, sir, I found a lot of things wrong with that. I
21 would think that I would have been able to read, sight read
22 everything before signing, here, go home and read this, read and
23 then sign when you come in.
24 Also what alarmed me also was that they didn't bother to
11:14AM 25 see me before the surgery, just to sit down and discuss with me

1 what was going to happen from beginning to end.

2 **Q Okay. Very good, thank you. Apparently the only way**

3 **we're going to fix this screen is we're going to have to hang up**

4 **and call back. So if we could take maybe just a five-minute**

11:15AM 5 **break? Is that a good time anyway?**

6 **Okay. I'm sorry.**

7 THE HEARING OFFICER: Yeah, we'll take five.

8 MR. WHITE: A little technical difficulty.

9 So Patient A, give us just a moment. If you need to do

11:15AM 10 anything, now is the time, and I'll see you back here in about

11 five minutes.

12 THE WITNESS: Okay. Thank you, sir.

13 MR. WHITE: Thank you.

14 (A brief recess was taken.)

11:20AM 15 THE HEARING OFFICER: All right. So now that we've got

16 all of our sound working, now we can go back on the record, and

17 Mr. White, you can continue your examination of Patient A.

18 MR. WHITE: Thank you.

19 BY MR. WHITE:

11:21AM 20 **Q Patient A, I think you just got through describing the**

21 **surgery room that you were taken back to.**

22 A Yes, sir.

23 **Q And that there was, in your opinion, lack of enough**

24 **equipment; correct?**

11:21AM 25 A Yes, sir.

1 **Q Okay.**
2 A Yes, sir.
3 **Q And did that -- did that add to your fear and discomfort**
4 **at that point?**
11:21AM 5 A Yes, sir.
6 **Q So is it fair to say that there were a few things kind**
7 **of making you feel fearful and uncomfortable, which would be --**
8 **and just answer yes or no -- which would be the 5:30 appointment,**
9 **coming there in the evening?**
11:21AM 10 A Oh, yes, sir. Definitely.
11 **Q I think you mentioned that you didn't even think the**
12 **surgery was going to be in that building or in that part of the**
13 **building?**
14 A Yes, sir. Correct.
11:22AM 15 **Q And then being led to a room where you eventually find**
16 **out, yeah, that's where the surgery is going to be, and there's**
17 **not a lot of -- doesn't seem like there was a lot of equipment in**
18 **there for what you were getting done; is that also true?**
19 A Yes, sir. Correct. Yes.
11:22AM 20 **Q So at this point the combination of all of that is**
21 **really kind of lending itself to making you very uncomfortable,**
22 **very fearful?**
23 A Yes, sir. Correct.
24 **Q All right. Is this the first time that you met**
11:22AM 25 **Dr. Phillips?**

A Yes, sir.

Q And just to be really clear, is it also the first time you talked to Dr. Phillips?

A Yes, sir.

11:22AM **Q Is this where she -- you had said before that she marked up your skin --**

A Yes.

Q -- with where they were going to remove and maybe transfer the fat, right?

11:23AM A Yes, sir.

Q Did she do it in that room?

A Yes, sir.

Q So at some point did you -- did she ask you to disrobe and did you get in a gown of some sort?

11:23AM A Yes, sir. Right when I walked in, the bathroom -- when you come in, to the left is a bathroom. And in there they have little packets of -- one to cover your breasts, and then another kind of like a thong underwear garment to put on.

And that's what I had put on before I walked to the

11:23AM front, in front of the divider where she took the pictures.

Q Okay. Thank you. I had mentioned a gown. It's not a gown, it's almost like a temporary bikini in way, right? Just to cover up those areas?

A Yes, sir. I'm sorry. Yes, sir. It was no gown

11:23AM involved. It was that -- that was the only thing I had throughout

1 the whole procedure.

2 **Q Okay. So just to kind of pull it all together, you were**
3 **already uncomfortable and fearful because of what we just talked**
4 **before about, and then would it be fair to say that this added on**
11:24AM 5 **to it that you had -- now you are meeting your surgeon for the**
6 **first time, moments before you are about to lay down on a table**
7 **and have surgery?**

8 A Yes, sir.

9 **Q Would you be able to recognize Dr. Phillips if you saw a**
11:24AM 10 **video or a picture of her?**

11 A Yes, sir, a 100 percent.

12 **Q Okay. Was Dr. Phillips, in your estimation, was she**
13 **comforting to you, or was it kind of more like an abrupt short**
14 **conversation before you laid down and started to get worked on?**
11:25AM 15 A Honestly, I would think both, because she saw how I was
16 kind of hesitant in the beginning, like what, you know,
17 questioning, like this is where we're doing our surgery? You can
18 see that her expression turned to like, okay, I know I need to
19 relax her.
11:25AM 20 She then -- that's when she began to go and explain like
21 what was -- like real quick, what was going to be done and how
22 fast the procedure was.

23 **Q What did she tell you? How fast did she say the**
24 **procedure was going to be?**
11:25AM 25 A She said two to three hours.

1 **Q Let's jump ahead a little bit. Was it three hours long?**
2 A No.
3 **Q What time did you -- and I'm going to go back to more of**
4 **what you went through with the surgery -- but what time did you**
11:25AM 5 **leave the office, Vida Spa?**
6 A It was a little bit -- it was a little bit before
7 midnight.
8 **Q So an arrival time of 5:30, go back -- about what time,**
9 **6 o'clock to go back to the surgery room?**
11:26AM 10 A Yes.
11 **Q And then you left shortly before -- you left Vida Spa**
12 **shortly before midnight?**
13 A Yes.
14 **Q Okay. So when you -- at some point they have you lay**
11:26AM 15 **down on -- is it a table?**
16 A Yeah, looks like a normal doctor's table like you would
17 get a physical on.
18 **Q With the paper rolled out, kind of thing?**
19 A Yes, sir. And underneath, when I walked in, underneath
11:26AM 20 you can see on the corner of the table, it looked like blood, like
21 dried up blood. It could have been Iodine. I don't know.
22 **Q But there was some sort of red substance that had dried**
23 **up?**
24 A Correct. Yes, sir.
11:27AM 25 **Q How did that add to your fear and discomfort at that**

1 **point?**
2 A Not at all. It wasn't easy. Not at all.
3 **Q Say that one more time. Sorry.**
4 A It wasn't easy. Not at all.
11:27AM 5 **Q So you're saying it did add to your fear?**
6 A Definitely. Yes, sir.
7 **Q What happened when you finally laid down on the table?**
8 A I laid down. I had told her how cold it was in there.
9 And she said unfortunately it has to stay that way just due to --
11:27AM 10 on bacteria, so I guess for me not to get bacteria in my open
11 wounds or something about that nature.
12 So I said okay, I understand.
13 And she then began to ask me if I knew of facial -- like
14 these facials that they provide with blood or something like that,
11:28AM 15 on my face. And I then said, oh, my gosh, you know, they do that?
16 And so that's when I realized she was trying to ease my mind or
17 trying to calm me down a little bit. She saw how I was already
18 scared and kind of doubtful about it already.
19 **Q Okay. Was she asking you, if you know, was she asking**
11:28AM 20 **you about other procedures, if you knew about them? Do you think**
21 **she was trying to sell them to you or just trying to kind of**
22 **deflect your attention?**
23 A Yes, sir. Yes, sir. She was trying to sell that. It
24 was the plasma facial, is what it was called.
11:28AM 25 **Q Is that otherwise what is known as a vampire facial?**

1 A Yes. Yes, sir.

2 **Q Okay. And this was -- was this the -- now, okay. Let**

3 **me establish something here.**

4 **Was there a nurse in there with both of you?**

11:29AM 5 A Yes, sir.

6 **Q Okay. Who was up-selling you on other procedures?**

7 A It was just Dr. Phillips that mentioned that.

8 **Q Okay.**

9 **Oh, I need to ask you this.**

11:29AM 10 **Did Dr. Phillips mention sedation at any point before**

11 **your surgery?**

12 A No.

13 **Q And more specifically, did she mention that you would be**

14 **sedated with propofol?**

11:29AM 15 A No, sir. No.

16 **Q Did someone at any point, while you were laying down**

17 **there on the table, did they insert an IV in your arm?**

18 A Yes.

19 **Q Who was that?**

11:30AM 20 A It was her assistant.

21 **Q And did that assistant explain to you what was -- what**

22 **they were putting that IV in for?**

23 A Yes, sir.

24 **Q What was it?**

11:30AM 25 A It was so that they can put me to sleep for my

1 procedure.

2 **Q Sorry, one more time?**

3 A It was so that -- she explained that that IV was so that

4 they can give me the medicine to put me to sleep for my procedure.

11:30AM 5 **Q Put you to sleep?**

6 A Yes.

7 **Q Okay. Did Dr. Phillips or the nurse that was present,**

8 **did they ask you about any allergies to sedation?**

9 A Yes, the only thing they asked me was if I had any. And

11:30AM 10 I told them, no, not that I'm aware of, because I have never had a

11 procedure done like this.

12 **Q So did they ask you if you had any allergies at all or**

13 **any allergies to sedation?**

14 A Any allergies at all to medication, is exactly what she

11:31AM 15 asked.

16 **Q To any medications, okay.**

17 **But fair to say that it's kind of tough to answer that**

18 **question if you don't know what you are about to receive?**

19 A Exactly, yes, sir.

11:31AM 20 **Q I guess I sort of know this, but I need to ask it, did**

21 **they ask you if you had had any prior bad experience with the use**

22 **of propofol?**

23 A No.

24 **Q Neither one?**

11:31AM 25 A Neither one. Nothing was mentioned of propofol.

1 **Q So, obviously, we're going to be having -- we're going**
2 **to have a missing few hours here that we're going to talk about,**
3 **because you were sedated. So you don't remember parts of this**
4 **evening, right?**
11:32AM 5 A Correct. Yes, sir, that is correct.
6 **Q Okay. Now, did you remain sedated throughout your**
7 **entire surgery?**
8 A Yes, sir.
9 **Q You did not wake up at all at one point?**
11:32AM 10 A I woke up while they were trying to put my undergarment
11 on me. Half my body was hanging -- like my right arm was hanging
12 off of the edge of the bed, or the table, the surgery table. And
13 my other -- my, also, right leg was dangling as well. I woke up
14 screaming, "Help, it hurts."
11:32AM 15 And I heard Dr. Phillips tell her assistant, "Give her
16 more."
17 **Q "Give her more"?**
18 A Yes.
19 **Q She didn't say give her more, anything -- nothing**
11:32AM 20 **specific, but just give her more?**
21 A Exactly. Yes, sir. That is correct.
22 **Q If you can remember, which is very difficult, did you --**
23 **did you just go out at that point again?**
24 A I fell right back to sleep. Yes, sir.
11:33AM 25 **Q You say this was when they were trying to get your**

undergarment on. What's an under -- what undergarment are you speaking of?

A It would be, it's called a faja in Spanish, so it's the garment that compresses your body that you have to have after

11:33AM liposuction.

Q Okay. To the best of your knowledge, the procedure -- well, actually, do you know, I'll just ask you the question, do you know if your procedure was over at that point or if you were still in the middle of the procedure when you woke up?

11:33AM A I didn't know. I just remember when I looked, kind of like I lifted my head a little bit, and I couldn't. I laid back, I saw that my faja was on, like just wasn't zipped, like they were trying to put it on me.

So that's why I assumed, like my body was placed -- the

11:34AM way my body was placed when I woke up, I must have been in like the middle of them doing that.

Q And I'm not familiar with that thing you are talking about. Do you know who to you spell that, that faja, for the court reporter?

11:34AM A Yes, it's F-A-J-A.

Q Thank you.

A Sir?

Q Yes.

A May I say something?

11:34AM Before the procedure, while I was laying down, she did

1 ask me if I wanted the fat transferred anywhere else.

2 **Q Okay.**

3 A And I said yeah. And I had asked her, "You can do

4 that?" She said, "Well, yeah, I mean, you are under already, like

11:34AM 5 where else would you like it, if you can put it anywhere else?"

6 She said, "Would you like it in your breasts?" I said,

7 "How much more?" She said, "No, you are already under. I can go

8 ahead and just do it."

9 **Q For no price?**

11:35AM 10 A Oh, my goodness -- I'm sorry?

11 **Q For no cost?**

12 A No cost.

13 **Q Thank you. I note that the witness wasn't just**

14 **narrating, that question was asked of her and I think she just**

11:35AM 15 **recalled it, so that question was asked of her, what Dr. Phillips**

16 **and her talked about before the procedure.**

17 A Yes.

18 **Q Thank you, Patient A.**

19 THE HEARING OFFICER: Ma'am, I'm going to ask you this

11:35AM 20 question. When they asked you, do you want the fat to go anywhere

21 else, what did you say?

22 THE WITNESS: I said, "You can do that?"

23 THE HEARING OFFICER: And what did you decide, did you

24 tell them at that point to do anything differently than you had

11:36AM 25 already discussed, or no?

1 THE WITNESS: When she said about the fat transfer to my
2 breasts, after I asked her if she can do that, she said "Yes,
3 you're under anyway." I said, "Well, yeah. Thank you." And she
4 said, "Okay, no worries."
11:36AM 5 THE HEARING OFFICER: So at that point, the plan for
6 your procedure changed at that point? They were going to do --
7 THE WITNESS: They added.
8 THE HEARING OFFICER: Yeah, okay.
9 THE WITNESS: She added, yes.
11:36AM 10 THE HEARING OFFICER: Okay. Thank you.
11 BY MR. WHITE:
12 Q I have a follow-up question to Mr. Woodman's great
13 question. Are you aware if that actually occurred?
14 A Yes. Yes, it did.
11:36AM **15 Q Okay. Do you know where you had other transfers? Was**
16 it breasts?
17 A Yes.
18 Q Okay. Anywhere else?
19 A Other than my buttocks, no.
11:36AM **20 Q Okay. Because I understand that sometimes they can do**
21 fillers and nose and things like that too.
22 A Yeah. No, that was the only thing.
23 Q Thank you.
24 A You're welcome.
11:37AM **25 Q All right. What is the next thing you remember? Did**

you just at some point just wake up? And I know it's a really dumb question because you are sitting here today, but at some point you woke up; is that the next thing you remember?

A Yes, after they put me back to sleep, when I was telling

11:37AM them "help me, it hurts," I remember the assistant helping me sit up a little bit. And they had a cup of warm tea with a straw, and they said please drink this. You need to drink this.

So I drank it. It was warm. And I remember I was very, very cold and shaking, like it was a very, very ugly, ugly, ugly

11:37AM feeling. I was so cold and I just didn't feel myself.

Again, I'm coming out of surgery, so I'm expecting to be in pain, but I just didn't expect it to be so intense.

So I drank the tea and it helped me a little bit with being so cold.

11:38AM After I drank about half of my tea she said, "No, you've got to finish it, okay? Try to finish it. This is going to help you." So I said okay.

And so I finished the tea. And then she comes. And right after they take the cup of the tea, the doctor brings me a

11:38AM cup of Coca-Cola. I mean, I'm sorry, a can of Coca-Cola.

So she asks me to drink this as well. And I'm thinking, well, this is really nice, you know, they are making sure I'm okay.

And I drank the Coca-Cola. She said this is going to

11:38AM help me. Again, I don't understand why. I couldn't really talk a

1 whole lot because I was still kind of in and out of it, but I
2 drank only a little bit of the Coca-Cola.
3 After that, they helped me get up. And I was hurting
4 quite a bit. I was in a lot of pain.
11:39AM 5 But I was still -- I can still feel, I was still
6 sedated, like I was still under medication.
7 So they walk me to the bathroom. When I get to the
8 entrance of the bathroom door -- I'm very dizzy, very, very
9 dizzy -- they let me pretty much go. I'm hanging on to the
11:39AM 10 bathroom door. I hang on to the sink.
11 When I tried to lift my gown at the time to go use the
12 rest room I almost fell back. I literally thought I was going to
13 pass out. The nurse then grabbed my hand. And had she not
14 grabbed my hand, I would have fell so hard, so hard, because --
11:39AM 15 with all my weight, just flying back.
16 Q Thank you. That's very descriptive, and it brings up
17 another question.
18 So they didn't even ask you if you have a tendency to
19 fall when you come out of sedation?
11:40AM 20 A No. No.
21 Q Okay. And when you referred to "she gave me a cup of
22 hot tea, she gave me a can of Coca-Cola," who are you referring
23 to?
24 A When I went right up, the assistant already had the tea.
11:40AM 25 So with one hand she had the tea, her other hand she was lifting

my back of me up, and so I was like partial -- I was laying down but I was partially, kind of, like up. And she had the tea.

Dr. Phillips brought me the can of coke.

Q Okay. And so you were kind of -- they were helping you,
11:40AM **or the assistant, the nurse assistant was helping you sort of sit up on the table so you could --**

A Correct.

Q -- drink?

How soon after this experience did you leave the office
11:41AM **of Vida Spa?**

A It was literally right after. After I went to the bathroom, my best friend and my daughter were already in the surgery room with me where they did the procedure. They already had a wheelchair, so I sat down on it. I was already in my
11:41AM undergarment and, I believe, a robe. And it was only Dr. Phillips and her assistant in that room.

As we walked out the front of Vida Spa, everything was closed. Everything was. There was nobody there but Dr. Phillips and the assistant.

11:41AM **Q I'm going to take you through that just quickly.**

Did -- were the lights on in the rest of the office?

A (Shaking head negatively).

Q No?

A No.

11:41AM **Q It was dark?**

A Yes, sir. Correct.

Q Did somebody have to unlock the front door before you went into the parking lot?

A Yes, sir. Correct. Yes, that was the assistant.

11:42AM **Q So for all intents and purposes, that place was closed and you were getting a surgery back there?**

A A 100 percent, yes.

Q Did Dr. Phillips or the assistant who we've now determined were the only ones left that work at Vida Spa, when you

11:42AM **left, did either one of them give you any instructions or anything like that?**

A After I was wheeled out of the room I didn't see Dr. Phillips at all. That was the last time I ever saw Dr. Phillips.

11:43AM The assistant gave my best friend the aftercare of what, pretty much on the paperwork, of everything I needed to be eating, down to, really, when I was supposed to walk, down to my compression socks, told me -- this is what I remember, as I was getting -- climbing -- and I went down an elevator.

11:43AM So I exited out, we make a left. We went down the elevator. My car was right in front of the elevator, parked.

My -- I have a Grand Jeep Cherokee, so he lifted the back, and he had everything laid out for me.

As I was climbing in, I remember the assistant saying

11:43AM your butt is going to be a little swollen, but it's going to get a

little bit bigger, and then you're going to see it drop, so don't be concerned of that.

But that's all that was said. It was nothing of -- it was more like a "here you go," and that was it.

11:43AM **Q Thank you. Did you get any medicine or any painkillers or anything like that prescribed to you?**

A So the day of my surgery, when I first got in, they gave me all -- because I asked them why. I didn't want -- because I knew it was going to be painful afterwards, I had asked if there's

11:44AM anything that he can do -- which is my best friend -- like he can go get, do I have prescriptions that need to be filled, so he can get that while I'm going under, so that I have everything I need when I get home.

She said, "Oh, no." They gave me a sealed bag. It

11:44AM looked like a prescription pharmacy bag, and it had all my prescriptions in there, is what she said. So she gave to it my best friend and he held on to that.

Q Do you know what they were?

A No, I didn't. She had everything sealed. Everything

11:45AM was stapled in the bag.

Q Okay. Give me one moment here.

A Okay.

Q Patient A, I'm going to have you turn to page 265 of Exhibit 22. 265.

11:46AM A Okay.

1 **Q Are you there?**
2 A I'm here.
3 **Q Okay. Thank you. You see what looks like a**
4 **prescription for Elavil. Did you -- it looks like it's written to**
11:47AM 5 **you. Did you use this?**
6 A Yes, sir. I used everything that was given to me by
7 them.
8 **Q So you got more than just the Elavil?**
9 A Yes. I got several bottles. I had, I think, a total of
11:47AM 10 maybe five bottles, maybe one or two more.
11 **Q Okay. If you can tell us, was the Elavil for -- to help**
12 **you sleep or to help with pain, do you know?**
13 A I don't know. Everything that was given to me, it made
14 me sick. Everything. All the pills, yeah.
11:47AM 15 **Q Did you -- I'll have you now turn to page 242.**
16 A Okay.
17 **Q Do you see there's a rectangle box there? It says**
18 **current medication?**
19 A Yes.
11:48AM 20 **Q Is that the -- is that what Dr. Phillips prescribed you?**
21 A Yes.
22 **Q So looks like we have ibuprofen, 800-milligram tablets,**
23 **moxifloxacin, clindamycin?**
24 A Yes.
11:48AM 25 **Q Okay. And I can't read that, I'm not sure what that**

1 **last one is. Okay.**
2 **But four different medications, plus the Elavil. Okay.**
3 A Yes.
4 **Q Did any of these help you with your pain?**
11:48AM 5 A No.
6 **Q If you go back to 265, it definitely looks like**
7 **Dr. Phillips signed it. Did you watch her sign it?**
8 A No.
9 **Q Okay.**
11:49AM 10 A Sir, for the Elavil, that was prescribed later.
11 **Q Oh, it was, later?**
12 A Yes, because I wasn't able to sleep for the first, I
13 believe, two days. I was in so much pain, even with ibuprofen.
14 So my main thing wasn't the pain, it was just I couldn't sleep.
11:49AM 15 **Q Okay. So Elavil -- sorry.**
16 A Uh-huh.
17 **Q So Elavil was to help you sleep?**
18 A Yes.
19 **Q Okay. And it does look like a date of 5/22/2021 so it**
11:49AM 20 **would have been about two days after your surgery?**
21 A Yes, sir.
22 **Q Okay. I have no more questions for you. I do want to**
23 **show you some videos so you can identify Dr. Phillips, if you can**
24 **watch those; but at this point do you have anything that you would**
11:49AM 25 **like to add that we may have missed about your experience?**

1 A Not that I can recall, no.
2 MR. WHITE: Okay. All right.
3 We're going to show -- everybody will be able to see it.
4 These haven't been marked -- or, they've been marked, excuse me,
11:50AM 5 but they are not -- they have been marked, haven't they? We will
6 probably ask -- actually, we'll use them right now for
7 demonstrative purposes, Mr. Woodman.
8 And we'll ask her to take a look at it, and maybe we can
9 talk a little bit more after that.
11:51AM 10 Actually, before you start it, I can ask her a question
11 real quick.
12 BY MR. WHITE:
13 Q I'm going to ask you a question before we start the
14 video, but we will watch it in a second.
11:51AM **15 Can you tell us who you see in this, at the beginning of**
16 this video?
17 A Yes, sir. That's Dr. Phillips with the White coat. And
18 that is Giselle with the beige, tan, brown shirt, and jeans.
19 MR. WHITE: Thank you.
11:51AM 20 Go ahead and start.
21 (The video was played.)
22 BY MR. WHITE:
23 Q Thank you, Patient A, for holding on for that video.
24 So you had said at the beginning, when it was -- at the
12:01PM **25 very beginning it was stopped, and you did identify Dr. Phillips**

1 **on the left, Giselle Platfoot on the right; correct?**
2 A Yes, sir. Yes, sir.
3 **Q How sure are you that that was Dr. Phillips?**
4 A A thousand percent.
12:01PM 5 **Q And how about Giselle Platfoot?**
6 A A thousand percent.
7 MR. WHITE: I would like to ask the record to reflect
8 that she has identified both Dr. Phillips and Giselle Platfoot.
9 THE HEARING OFFICER: And the record will so reflect.
12:01PM 10 BY MR. WHITE:
11 **Q Also I think we heard them mentioned that, the word**
12 **Vida Spa -- or "Vida Spa," I think is how Giselle said it. You**
13 **saw that whole video and you've been there.**
14 A Yes.
12:01PM 15 **Q Despite them just standing in kind of a corner doing**
16 **that video, were you able to recognize that as Vida Spa?**
17 A No.
18 **Q You weren't able to recognize it as Vida Spa?**
19 A No, where they were located, no. That was like if they
12:02PM 20 were in an office.
21 **Q So you didn't the see that picture or anything like that**
22 **on the wall?**
23 A No.
24 **Q Okay. Do they have more than one office, as far as you**
12:02PM 25 **know?**

A Yes.

Q They are in the same building?

A Yes. When you walk in, there's a seating area to the left. The counter is right when you walk in.

12:02PM When you walk towards the back, they have a break room right -- right, the very first door on the right-hand side would be the break room where the employees go eat or rest.

When you go further down, there's another, kind of like a short hallway to the right, and there is three, if I'm not

12:02PM mistaken, three rooms; two on the left, one on the right. And on one of the rooms is where I used to get my drainage massages.

Q And then there's another office, is that where you -- and the other office is where you had your surgery, upstairs?

A Yes. And when you go further down -- because everything

12:03PM is done upstairs. Everything -- there is no downstairs. Everything is just an upstairs level.

When you go further down, straight ahead is Giselle's office.

Q So they were standing in a corner, you don't recognize

12:03PM **that corner, out of either -- from either of the two offices that you saw?**

A Honestly, no.

MR. WHITE: Okay. Thank you. No, that's okay. I just want you to be truthful. That's good. That's not a problem.

12:03PM So I guess -- I don't think I have anything else for

1 you. This would be normally the time for -- I'll let Mr. Woodman
2 take care of that. But I have no more questions. I would pass
3 the witness at this point.
4 THE HEARING OFFICER: Very good.
12:04PM 5 And do you think you're going to need to possibly recall
6 her this afternoon? Or not.
7 MR. WHITE: I don't think so.
8 THE HEARING OFFICER: All right. Ma'am, we very much
9 appreciate your willingness to come and testify today.
12:04PM 10 It doesn't appear that we're going to need you any
11 further, so you are free to go.
12 But when you leave, it's possible you might run into
13 other people there in the building who might be testifying in this
14 case later on this afternoon, so I need to ask you not to discuss
12:04PM 15 your testimony with anybody. Okay?
16 THE WITNESS: Yes, sir.
17 THE HEARING OFFICER: Thank you very much ma'am.
18 MR. WHITE: Thank you very much, Patient A.
19 THE WITNESS: You're very welcome. Thank you.
12:04PM 20 THE HEARING OFFICER: So with that, anything you want to
21 address before we just give our reporter a lunch break?
22 MR. WHITE: No, but I would -- I actually would ask that
23 to be marked as -- what would that be, Exhibit 92?
24 MS. BYRD: I think we're at 93.
12:05PM 25 MR. WHITE: 93? I'm losing count.

1 91 would be the withdrawal. Yeah. So 92.
2 MS. BYRD: The video.
3 THE HEARING OFFICER: Right, I've got 91 -- so this
4 would be -- the video is what you want marked as 92?
12:05PM 5 MR. WHITE: Yes, please. And I'm going to move to admit
6 it based on that she was able to recognize both, a thousand
7 percent recognize both Dr. Phillips and Giselle Platfoot.
8 I realize that may have been filmed somewhere else, but
9 they did mention Vida Spa in that, so I don't believe there's any
12:05PM 10 mistaking what this was all about.
11 THE HEARING OFFICER: No. And for what it's worth, I
12 lived in South America for a couple of years and I speak Spanish
13 fluently, so there's a whole lot more I picked up than maybe most
14 would pick up, but, yes, 92 will be admitted.
12:06PM 15 (Exhibit 92 marked for identification
16 and admitted into evidence.)
17 MR. WHITE: Thank you. That's all I have. We can take
18 a break for lunch and we'll bring Kim in later and you can also do
19 your Zoom when it happens, I guess.
12:06PM 20 THE HEARING OFFICER: All right. So you're going to
21 bring Ms. Friedman back, right?
22 MR. WHITE: Yes.
23 THE HEARING OFFICER: And how much time do you think
24 you'll --
12:06PM 25 MR. WHITE: I think it will only take about another

1 hour.

2 THE HEARING OFFICER: Because I've got that 1 o'clock, I

3 don't want people hurrying back here to wait for me, so why don't

4 we say 1:30. And that way people have time, and by 1:30 I should

12:06PM 5 be good to go.

6 MR. WHITE: I appreciate everybody's patience.

7 THE HEARING OFFICER: We can go off the record.

8 (A discussion was held off the record.)

9 THE HEARING OFFICER: Can you hear us, ma'am?

12:13PM 10 THE WITNESS: I can, yes, sir.

11 THE HEARING OFFICER: So, ma'am, we're back on the

12 record, very briefly. Thank you for coming back. Mr. White may

13 have a question or two more for you.

14 THE WITNESS: Of course.

12:13PM 15 MR. WHITE: Thank you, Patient A. I apologize for that

16 little mishap.

17 BY MR. WHITE:

18 Q I wanted to ask you, what are you experiencing now since

19 your surgery? Go ahead.

12:13PM 20 A I'm still in pain. I still get -- I still have quite a

21 bit of -- my stomach has lumps still, and they are very painful.

22 That's -- I'm only required -- they said 10 massages, for the

23 surgery and I should be perfect, they said.

24 I'm literally on probably 30 massages, and I'm still

12:14PM 25 going. I go once or twice a week, depending on how bad I am that

1 week. My massage therapist is the one that will tell me, "Okay,
2 so next week we'll see you two times a week." You know, "What we
3 did this week, I'll only need to see you one time next week," and
4 from there, she goes on like that.
12:14PM 5 **Q So you're still experiencing pain --**
6 A Oh --
7 **Q -- where they did the Liposuction 360?**
8 A Yes. And if -- yes. It's horrible, yes. Yes. I'll be
9 sitting down at work, and I'll get just, like cramp, and then a
12:14PM 10 sharp pain that shoots right up, like just straight up.
11 **Q Okay. And you said lumps, so -- and you also mentioned**
12 **10 massages. So was it your expectation that after this surgery**
13 **and the 10 massages, that everything would be smooth and not**
14 **lumpy?**
12:15PM 15 A Yes, that's exactly what they told me.
16 **Q And are those massages supposed to be the things that, I**
17 **guess, for the aftercare, smooth things out even more?**
18 A Yes. So it's called lym- -- I'm sorry -- the lymphatic
19 drainage massages. So before they can remove the drains they give
12:15PM 20 you, Vida Spa gives you, I think it's two or three massages that
21 are inclusive with what you pay, and they drain you out.
22 So they rub your stomach and the blood or the fluid that
23 they injected me with to sedate me, as well as what they did for
24 the lipo, drains out from inside, they said.
12:15PM 25 **Q Is anybody injecting more into you right now, or is it**

just still coming out from the surgery?

A No, it's done. It was the first five -- I was actually ready by the fourth day for my drainage to come out, but Vida Spa literally waited seven days, for God knows why.

12:16PM **Q To take out the drainage?**

A Yeah, the massage therapist at Vida Spa told her, on the third or fourth day, "Hey, she's not leaking anymore. She -- can we take off the drains?"

And they came back and said, no, leave them in there

12:16PM until her next appointment, which wasn't until the seventh day of my post-op.

Q So would you say that you are satisfied or dissatisfied with your decision to go to Vida Spa, and then the overall outcome?

12:16PM A 100 percent dissatisfied. I regret ever going there, from beginning. I already -- and again, I can't say this enough, that I wish I would have known what I know now, my feeling -- before all this came out, just with the procedure alone, the way things were handled from beginning to end, besides -- of what they

12:17PM did to me, or whatever they did to us, they are horrible. They're horrible.

They don't give you the comfort or talk to you or provide what you need to heal or prepare, they just give you a piece of paper and they collect your money. That's all.

12:17PM If you feel -- literally, I felt like, how -- that's how

1 I felt, right after that, because I had to call them and say,
2 "Hey, you know what, I not able to sleep, I'm in so much pain."
3 And it's normal -- and I know it's normal for you to
4 feel bad. I've seen people -- again, I know healing processes
12:17PM 5 vary for everybody, but I see people, and a lot of people, they're
6 putting makeup on, you know, they are walking around me.
7 I had the most horrific four or five days. I needed
8 help walking to the bathroom for three straight days, like I
9 couldn't walk on my own. I couldn't hold myself up, which they
12:18PM 10 were saying was not normal. They were saying by the next day I
11 should have been up, walking on my own.
12 Q Did you have any, aside from your massages that you got
13 with the price, did you have any follow-up visit with Dr. Phillips
14 after the surgery?
12:18PM 15 A Sir, the only day I ever spoke and saw Dr. Phillips was
16 literally the day of my surgery.
17 Q Are you still wearing the undergarments, or has that
18 passed by?
19 A Yes, I still have to wear it on. They said for the
12:18PM 20 first three months I have to wear it day, night, the only time I
21 remove it is to shower.
22 And after three months you have to wear it eight hours a
23 day, so I did try it -- I'm already going on three months on the
24 20th of this month. So I tried, two days ago, to -- like I went
12:19PM 25 to work with my faja, so that's about eight to ten hours with my

1 faja. And when I got home, I removed it. And I can't -- it's
2 painful.
3 So I feel like my faja helps with the pain, because when
4 I remove it, I feel -- it feels really bad, and my body hurts. My
12:19PM 5 body hurts without it.
6 Q And you have to wear those for total of six months,
7 right, that faja?
8 A Yes, sir. Yes, sir, that's correct.
9 Q Who removed your drains, if you didn't see Dr. Phillips?
12:19PM 10 A It was the nurse, the nurses there.
11 My massage therapist, the one who was doing the
12 massages, whichever one that was doing the massages. We had
13 different ones. It wasn't always the same one.
14 Q You said it wasn't always the same one that was giving
12:19PM **15 the massage?**
16 A No, sir. They have different -- I'm not sure what the
17 nurses, or what, but yeah, there were different ones.
18 And one, the first time it was only one that did my
19 massage. The second time it was two people that did my massage.
12:20PM **20 Q And then when they removed your -- the drains, do you**
21 recall which nurse that was, who it was?
22 A No, I don't. I've never seen her before.
23 Q And actually, let's ask you this too.
24 Did you recall who the nurse was in the surgery room
12:20PM **25 that night?**

1 A No, she wasn't in the room with me at all after that.

2 **Q No, but do you recall the name of the nurse that was**

3 **present when you had your surgery?**

4 A Oh, no. But I remember her face. And she's short,

12:20PM 5 Hispanic woman.

6 **Q Okay.**

7 A Long hair.

8 **Q Okay. Do you have anything else you want to add about**

9 **your experience since the surgery?**

12:21PM 10 A Oh, I see -- I forgot to mention, I did see on the paper

11 of what they provided before -- for what my price was, the faja

12 was not included. I had to purchase the day of.

13 Also what kept this dragging on, was when I got there

14 they asked if I had brought my faja. And I told them, "Wait, they

12:21PM 15 said that was included, because I didn't know what size to get.

16 Otherwise, I would make sure I brought that to this, you know. I

17 would ask what size would I need, so Giselle told me that you guys

18 provide that."

19 And they said, "Oh, no, no, no, that's not true. You

12:21PM 20 guys have to provide it."

21 So then they sent my best friend and my daughter to go

22 gather one at the place I guess that they go to, because they

23 didn't have one available for me. So that was false. They did

24 not include my faja in the price. I had to buy that myself.

12:22PM 25 **Q I see what you're looking at. I want you to turn to**

page 262, quickly, of Exhibit 22.

A Yes, sir.

Q It looks like it says "package includes."

A Uh-huh.

12:22PM **Q Does that say faja?**

A Yes.

Q And you just told us you had to buy your own the day of?

A Yes. I didn't -- they didn't let me know. Again, they told me this was inclusive. Because, again, I didn't know what

12:22PM size I was. Otherwise, I would have been asking like, hey, what size am I supposed to get, and made sure I had that undergarment. Because they said, without that, they couldn't do the surgery.

So my best friend had to fly on the other side of town -- mind you, they closed at 6:00. So they were there

12:22PM literally a little bit before 5:30.

So right away, they asked, "Well, did you bring your compression garment, did you bring your faja?" And I was just like, "No, you guys were supposed to provide that. That was inclusive in the price." She said, "Oh, no. No, it's not."

12:23PM So they sent him to where, I guess, they get their -- or one of the ladies said where they get it from. And he raced over there and he brought it back. Right when I was walking into the room, they did bring it back.

Q Okay. What is it after "faja," what does that say? Do

12:23PM **you know?**

1 A After faja?

2 **Q Right after "faja" where it says "package includes," do**

3 **you know what the next word is? Looks like it starts with a B?**

4 A I'm assuming that meant to say "board," but they didn't

12:23PM 5 provide that either.

6 I had to buy the board and the foams that go -- because

7 you have to wear a -- it's an abdomen board, and foams that go

8 around your whole torso, to keep everything, like, pretty

9 compressed.

12:23PM 10 **Q For how long?**

11 A So I was wearing that -- I'm sorry?

12 **Q I'm sorry to interrupt you, but for how long do you wear**

13 **that board?**

14 A I wore that for the first two months.

12:24PM 15 **Q Okay.**

16 A So that was also not included. I don't know why they

17 have that. They did not give that to me either.

18 **Q Just out of curiosity, do you know where your friend**

19 **went to pick up a faja and the board for this?**

12:24PM 20 A Yeah, I still -- no, the board I already had purchased

21 because in your list of items, the board and the abdomen -- the

22 abdomen -- I'm sorry, the abdomen board and the foam boards, we --

23 it said that we had to purchase that in advance. So I made sure I

24 had that already before my procedure. I had all that at my home.

12:24PM 25 But the faja was supposed to be given to me there and I

still -- yeah, I know exactly where, because I still go there and still get fajas, because you just don't just stay in one faja, there's -- you literally -- I went from an extra large down to a small within weeks.

12:25PM **Q Okay. And they --**

A That's -- uh-huh.

Q And they all fit properly, from the beginning until going down to the small?

A Yes. Yes.

12:25PM **Q So you were able to purchase the right one?**

A Yes. Yes.

MR. WHITE: Okay. I think I'm -- I think I have all my questions answered. Thank you very much. And thank you for coming back. I apologize.

12:25PM THE WITNESS: Of course. Anything else?

No, no worries. If you guys need anything else, please let me know, I'll be glad to come back.

THE HEARING OFFICER: Thank you, ma'am.

THE WITNESS: You're very welcome. Thank you.

12:25PM THE HEARING OFFICER: We'll go off the record again.

(A discussion was held off the record.)

(The lunch recess was taken.)

THE HEARING OFFICER: We're back on the record in the matter of Investigation of Maryanne DeForest Phillips, M.D.

01:35PM And it is now our after-lunch session. It's 1:35, as we

1 pick this back up.

2 And Mr. White finished up with his last -- his second

3 witness, who we are referring to as Patient A.

4 And, Mr. White, it's my understanding there's going to

01:35PM 5 be a housekeeping issue here, but did you want to go back to

6 Ms. Friedman or did you want to call a separate witness first?

7 MR. WHITE: We'll go back to Ms. Friedman, yes.

8 THE HEARING OFFICER: And then do you want to address

9 some housekeeping now? Or do we need to address --

01:36PM 10 MR. WHITE: You know what, actually, it is probably

11 maybe a good idea that we do Meg right now first. That way when

12 we get the videos maybe admitted, possibly, and your ruling

13 and we'll do that.

14 THE HEARING OFFICER: So, Ms. Friedman, can you hear us?

01:36PM 15 MS. FRIEDMAN: Yes, I can.

16 THE HEARING OFFICER: Great. So I think we're going to

17 have a real quick witness here in Ms. Byrd. Do you mind just

18 standing by there?

19 I'm not concerned about you hearing Ms. Byrd's testimony

01:36PM 20 based on what I know it's going to be. I mean, I don't know

21 exactly what she's going to say, but I know generally what. She's

22 going to put down some foundation for some videos.

23 Do you mind just waiting for us there? As soon as we

24 finish with her, we'll take off with you.

01:37PM 25 MS. FRIEDMAN: You bet.

THE HEARING OFFICER: All right. Do you want to address anything on the record, Mr. White, before calling Ms. Byrd?

MR. WHITE: Yeah, I just want to address that these -- I'm going to call Ms. Byrd, really, to just lay a foundation for more videos that were downloaded from Facebook. We'll get more into details as she testifies.

01:37PM

But that is all she's here for. She's only here to authenticate and lay a foundation for those videos so we can possibly get them admitted, depending on what you rule.

01:37PM

There's nothing substantive about the case that she's going to testify to, nor is there anything that has to do with the allegations in the summary suspension. It's just merely a way to try and lay a foundation for the videos.

THE HEARING OFFICER: All right. So, Ms. Byrd, will you please raise your right hand and our reporter will swear you in.

01:37PM

MARGARET FRANCIS BYRD

called as a witness, having been duly sworn,

testified as follows:

01:38PM

THE HEARING OFFICER: All right. Mr. White when you're ready.

MR. WHITE: Thank you.

///

1 DIRECT EXAMINATION

2 BY MR. WHITE:

3 **Q Ms. Byrd, would you please spell your full name, or**
4 **excuse me, say your full name and spell it, please, for the court**
01:38PM 5 **reporter.**

6 A Yes, my name is Margaret Francis Byrd. Last name is
7 spelled B-Y-R-D.

8 **Q And let's just get a little background on you. Do you**
9 **work for the Nevada State Board of Medical Examiners?**

01:38PM 10 A I do.

11 **Q And what is your capacity here at the Board?**

12 A I'm a legal assistant.

13 **Q All right. And just for disclosure purposes, are you**
14 **my -- are you my legal assistant?**

01:38PM 15 A I'm assigned to most of your cases.

16 **Q And also for another attorney in our office; correct?**

17 A Correct.

18 **Q And so we're here to talk about some videos that we**
19 **have, they are not even marked yet, but I would like to just ask**
01:39PM 20 **you some questions about those videos. Okay?**

21 A Okay.

22 MR. WHITE: And maybe we should probably -- may I have
23 permission to publish them so we can at least just see what we're
24 looking at --

01:39PM 25 THE HEARING OFFICER: I have no problem with that.

1 MR. WHITE: -- before they are admitted?
2 So if you would.
3 THE WITNESS: Uh-huh.
4 Do you want me to bring up those videos?
01:39PM 5 MR. WHITE: Yes.
6 I'm going to state that I don't have the list in front
7 of me.
8 We saw one already and it's been admitted.
9 THE WITNESS: The liposuction and the second --
01:39PM 10 BY MR. WHITE:
11 Q So go ahead, just put it up. Go ahead and put it up.
12 A This one, okay.
13 Q You may not even need to play it, depending on what we
14 can see.
15 (Video still picture shown.)
16 BY MR. WHITE:
17 Q Is it possible to see that, everyone? At least I would
18 like to point out that there's a date here.
19 Ms. Byrd, can you see a date here that I'm pointing with
01:40PM **20 my pen?**
21 A I can. January 6th.
22 Q So where did you -- did you download this video?
23 A I did.
24 Q And where did you -- where did you download this from,
01:40PM **25 from what social media platform?**

A Facebook.

Q And how many Facebook accounts did you visit to download this and other videos we'll see in a moment?

A Two.

01:41PM **Q Okay. What are their names?**

A The first one was Vida Spa Platfoot.

The second was Vida Spa.

Q Okay. And going back to this date -- so on Facebook, just to kind of point out, if we don't see a year, what does that

01:41PM **generally mean?**

A It generally means that it took place in the same year that we're in currently.

Q Okay. So, for instance, if it was January 6, 2020, we would see a 2020 after that?

01:41PM A Correct.

Q Okay. All right. And did you make any friend requests to obtain access to either of these accounts?

A No.

Q Okay. So why did you not make a friend request?

01:42PM A These accounts were open to all Facebook users. They are public accounts, used typically for advertising and to reach the public -- to reach the general public or the members of Facebook.

Q And so, in other words, can anyone with a Facebook

01:42PM **account -- and millions of people have -- can they view these**

1 **videos?**

2 A Yes.

3 **Q And that would be without having to make a friend**

4 **request, you just go on, look for it, search for it and watch**

01:42PM 5 **them?**

6 A Correct. There are no barriers to seeing the videos.

7 MR. WHITE: So at this point, would you, Mr. Woodman

8 would you like to see a little of it, or are you satisfied that we

9 can start a little of it, we don't have to watch the whole thing?

01:43PM 10 I can also have Kim watch them too.

11 THE HEARING OFFICER: Well, if you just make an offer of

12 judgment -- not an offer of judgment, an offer of proof as to

13 what's in them, I'll admit them, and them you can play them when

14 you want them.

01:43PM 15 MR. WHITE: Okay.

16 BY MR. WHITE:

17 **Q Well, this one, if I remember correctly, is where the**

18 **woman on the left, who I'm actually not familiar -- I'm not sure**

19 **who that is -- is sort of interviewing Dr. Phillips, who is**

01:43PM 20 **certainly the one on the right, and they're also talking about**

21 **what prices are and everything. It's kind of a little bit like**

22 **the last one.**

23 **And, Meg, you're still on here. Do you recall anything**

24 **else about this video that stands out from the other one?**

01:43PM 25 A Specifically, the lady on the left discusses the

1 sedation and the possibilities of sedation.

2 **Q Okay. So, yeah, so there's some sedation talked about.**

3 **And obviously that's an issue.**

4 THE HEARING OFFICER: That's clearly going to be

01:44PM 5 something that will be interesting.

6 MR. WHITE: All right. So at this point I would move to

7 admit that video, and I guess we'll have it as 94, if it's

8 admitted.

9 THE HEARING OFFICER: And I'm going to admit it, so that

01:44PM 10 will be 94 -- or I was going to say 93.

11 MR. WHITE: So 91 is the withdrawal.

12 You're right.

13 THE HEARING OFFICER: I think where I keep throwing you

14 off is we went back and called that one email 54A.

01:44PM 15 MR. WHITE: 54A, which I'm going to get admitted in,

16 hopefully. Yeah, okay.

17 (Exhibit 93 marked for identification

18 and admitted into evidence.)

19 BY MR. WHITE:

01:45PM 20 **Q Okay. So let's go to a different one.**

21 A This one?

22 **Q Yes. Just go ahead and put that one up. I just want to**

23 **make sure.**

24 (The video was played.)

01:45PM 25 MR. WHITE: Stop.

1 BY MR. WHITE:

2 **Q So this is a different video. This is going to show the**

3 **offer of proof I'll show for this one.**

4 **First of all, I would like to make a little disclaimer**

01:46PM 5 **here, if you don't want to watch it, it is a little bit -- it**

6 **shows a surgery. I mean, it shows somebody going in, which you'll**

7 **notice is going to be Dr. Phillips. She's doing a chin lipo.**

8 **So you can actually see the cannula, which I think is a**

9 **little smaller cannula than you would use for the abdomen. I'm**

01:46PM 10 **not sure, I'm not positive about that, but it goes into the chin**

11 **underneath, so you'll see that.**

12 **But you will see Dr. Phillips. It's being narrated by**

13 **somebody, I don't know who that is, but it's obviously**

14 **Dr. Phillips doing a chin liposuction.**

01:46PM 15 THE HEARING OFFICER: Very good.

16 MR. WHITE: Would you like to view a little of it?

17 THE HEARING OFFICER: So for right now, it depends on

18 what you want to do with it. Based on your offer of proof, and

19 what you are telling me, that it's showing Dr. Phillips doing the

01:46PM 20 procedure, I'm going to admit it based on that, and then you can

21 either show it now or show it later, depending on how you want to

22 present your case.

23 BY MR. WHITE:

24 **Q Okay. Meg, does this show that it's also from Facebook,**

01:47PM 25 **or is this a different one?**

1 A No, this one does not have a Facebook notation but it
2 was downloaded from Facebook. I downloaded it from Facebook.
3 MR. WHITE: Okay. Well, with my offer of proof I'll
4 submit that you will see Dr. Phillips' face in that, that it is
01:47PM 5 her doing this procedure.
6 So at this point I would move to admit this also.
7 THE HEARING OFFICER: Admitted.
8 (Exhibit 94 marked for identification
9 and admitted into evidence.)
01:47PM 10 MR. WHITE: 94?
11 THE HEARING OFFICER: Does that sound right? We've got
12 to check with the boss.
13 MR. WHITE: So this one -- go ahead -- there you go.
14 (The video was played.)
01:48PM 15 MR. WHITE: This one also you'll see Dr. Phillips, looks
16 like. I've seen this one a few times. This one is -- she is sort
17 of cleaning up blood from the incisions after doing a chin
18 liposuction.
19 I think it's -- I don't know if it's the same patient,
01:48PM 20 I'm not aware of that, but you will see that, and then you'll hear
21 Giselle Platfoot, she does narrate this one.
22 And she's narrating this and saying how great this woman
23 looks, the definition in her chin now.
24 And Dr. Phillips is clearly shown in here. And she has
01:48PM 25 some gauze in her gloved hand and she is wiping blood that keeps

sort of seeping out a little bit from the chin.

And it looks like, I think, if I remember correctly, it's basically two little holes right here below the chin.

So that's the offer of proof for that.

01:49PM THE HEARING OFFICER: And, again, since it's showing Dr. Phillips performing a procedure, I'm going to admit it.

(Exhibit 95 marked for identification and admitted into evidence.)

BY MR. WHITE:

01:49PM **Q And just to make sure it's all clean and tidy, did you also download this one, Meg, from Facebook?**

A I did download it from Facebook, yes, on the public pages.

MR. WHITE: On the public pages.

01:49PM So that's all we have. We have the four videos. Okay. And I would be ready now to speak with Kim.

THE HEARING OFFICER: All right. Thank you, Ms. Byrd.

Then go ahead, Mr. White.

Ma'am, can you still hear us down there?

01:50PM MS. FRIEDMAN: Yes, sir.

THE HEARING OFFICER: And we can adjust the volume up here a little if we need to, Ms. Friedman, but go ahead and speak up nice and loud so that our reporter can hear you.

THE WITNESS: Okay.

01:50PM THE HEARING OFFICER: Thank you.

Go ahead, Mr. White.

KIMBERLY FRIEDMAN

recalled as a witness, having been previously duly sworn, testified as follows:

DIRECT EXAMINATION, RESUMED

BY MR. WHITE:

01:50PM **Q Thank you. The first thing, I'm going to do some of -- I don't know if you have a copy of it down there.**

Do you have a copy of the email from McKesson that was sent to you, sitting in front of you, that we spoke to you about before?

01:50PM A I do not have it sitting in front of me.

Q Okay. All right. Maybe we should -- we'll get you a copy. I'll move on and we'll get you a copy and I'll come back to that.

A Okay.

01:50PM **Q One moment.**

Okay. Ms. Friedman, sorry about that. We'll get you a copy.

So I think you mentioned before, and I just want to ask you again since we're kind of back from a break, did you inspect

01:51PM **Vida Spa?**

1 A Yes.

2 **Q Okay. How many times?**

3 A Full inspection, twice.

4 **Q And what dates, if you can remember, were those**

01:51PM 5 **inspections?**

6 A October 27th, 2020, and June 23rd, 2021.

7 **Q Okay. I want you to turn to Exhibit 51.**

8 A Okay.

9 **Q So when you do an inspection, kind of take us through,**

01:52PM 10 **do you do them kind of all the same?**

11 A Essentially, it depends on -- typically depends on who

12 is leading the investigation, whether it's the Medical Board, the

13 Pharmacy Board.

14 In this case it was the Bureau of Health Care Quality

01:53PM 15 clients.

16 So if I go with the Pharmacy Board, we tend to do a

17 visual inspection of the entire facility, focusing on the

18 medications and controlled substances.

19 Because of the situation with the Health Care Quality

01:53PM 20 and Compliance, my main concern is what was transpiring in the

21 procedure room.

22 **Q And are you referring to -- which inspection are you**

23 **referring to, the one in 2020 or 2021?**

24 A 2021.

01:53PM 25 **Q Okay. So the one in June. Okay. Great.**

1 **So because it was the Board of Health Care Compliance,**
2 **did you -- you stated that you were looking more at what**
3 **procedures were being done.**
4 **Is that because they have a duty to discipline or**
01:53PM 5 **monitor what's going on in facilities?**
6 A There was a concern that there was sedation being
7 utilized while liposuctions were being performed in the facility.
8 It was not licensed for conscious or unconscious sedation.
9 **Q Is it your understanding, as you sit here, that they**
01:54PM 10 **were also not licensed to perform any kind of surgeries? They are**
11 **not licensed as a surgery center?**
12 A They are licensed as a cosmetology establishment. That
13 was all.
14 **Q Okay. So about how long did your inspection take that**
01:54PM 15 **day on June 23rd?**
16 A We were on site at that facility for approximately six
17 to six and a half hours.
18 **Q And did you meet with somebody from the Board of Health**
19 **Care Compliance ahead of time, or did you meet at the location?**
01:55PM 20 A I met the two inspectors at their office on Maryland
21 Parkway prior to going on site at Vida Spa.
22 **Q Okay. And what did you see upon arriving?**
23 A Upon arriving, I asked to speak with Giselle Platfoot or
24 an APRN or RN, whoever was in charge at that time.
01:55PM 25 Ms. Platfoot was not at the facility, so they brought a

1 nurse who presented herself as Kristin Molina.
2 I asked Ms. Molina to show me the procedure room.
3 Initially, Ms. Molina stated that the procedure room was under
4 construction.
01:55PM 5 I asked Molina to verify that no procedures were being
6 performed, liposuction procedures were being performed at the
7 facility. She said no.
8 I inquired again, a little more directly, because I did
9 know that there were procedures being performed.
01:56PM 10 At that time she stated to me, "Oh, I misunderstood your
11 question," and took us to the back of the facility where they had
12 now moved the procedure room.
13 Upon walking into the procedure room we noticed a
14 patient in a gown, medical gown and blankets, sitting on a couch
01:56PM 15 in a room that appeared to be a quasi-storage room.
16 To the left there was a bathroom, and then a small
17 entrance into another room, which was set up for a procedure.
18 Q And you did just say that you saw somebody waiting for
19 surgery?
01:56PM 20 A That's correct.
21 Q And so how do you know they were waiting for surgery?
22 Had you seen somebody before, in your nine years as an
23 investigator for the Board, have you seen somebody before that's
24 been prepped for surgery?
01:57PM 25 A I'm also a surgical assistant so I've seen patients

1 prepped for surgical procedures. And then I verified with the
2 nurse, Ms. Molina, and asked her, inquired who the patient was
3 sitting on the couch.
4 When we walked in, on a table there was a patient chart
01:57PM 5 opened up, and I asked if that was the patient. And she
6 confirmed, the patient name on the chart was the patient sitting
7 on the couch.
8 Q Okay. Let's go to Exhibit 51, please. Ask you to take
9 a look at that.
01:57PM 10 A Okay.
11 Q So these are already admitted. And as you stated
12 before, when you authenticated these, these are pictures you took
13 on June 23rd, 2021; is that correct?
14 A Correct.
01:58PM **15 Q So what do we see? If you turn to the very first page**
16 of Exhibit 51, which is page 1102, what do you see there, what are
17 we seeing?
18 A That is a tall Mayo stand. A Mayo stand is typical,
19 what you'll find in a doctor's office, where they will place
01:58PM 20 utensils, equipment, and so forth. It's a tall Mayo stand that is
21 prepped with tubing and various cannulas, and it looks like a few
22 clamps as well.
23 Q Thank you. And would you turn to the next page, which
24 is 1103?
01:58PM 25 A Uh-huh. It's a photo of a lidocaine vial.

Q And this was -- was this near -- what room was this in?

A This is -- all this is in the same surgical procedure room.

Q Okay. Next one, 1104, what are we looking at there?

01:59PM A These were also found in the procedure room. These are copies of prescriptions, with Dr. Phillips' information on it.

Q Can we tell which pharmacy these are, too? I'm having trouble.

A Well, they are all blank on Exhibit 1105.

01:59PM **Q Thank you. I see.**

A It shows the Bio Nutraceutical Health Solutions.

Q And below that, what does it say?

A Maryanne Phillips, M.D., Medical Director, with an address at 2121 East Flamingo Road, Suite 112, Las Vegas, Nevada,

02:00PM 89191.

Q Thank you. Turn to page 1106.

A Okay.

Q Without reading the patient's name, because we do have a picture of a patient record there, what -- yeah, what is this? Is

02:00PM **this what I just stated it was?**

A This was the chart that was located directly to the left side, on a desk, upon entering the procedure room, where the nurse, Nurse Molina verified that patient EG was the same patient that was sitting on the couch, waiting for the procedure.

02:01PM **Q Okay. This was the person sitting on the couch that**

you -- that Ms. Molina actually told you that?

A Correct.

Q I'm going to ask you a question. So at the top there it has a date, is that the same date that you were doing the

02:01PM **inspection?**

A Correct, 6/23/21.

Q What's the time right next to that?

A The time stamp on it is 9:15.

Q Okay.

02:01PM THE HEARING OFFICER: While you're taking a second there, I'm going take you an extra second.

THE REPORTER: Oh, thank you.

THE HEARING OFFICER: Go ahead when you're ready, Mr. White.

BY MR. WHITE:

Q Thank you, Ms. Friedman. And turn to page 1104.

If you can recall, where were you located and what is that?

A These were also located in the procedure room and it's

02:02PM heparin injections.

Q Okay. Turning to page 1108.

What is that, and was it located in that room also?

A Yes, there was, along the east wall, there's a cabinet, and in the cabinets were located additional medications,

02:02PM epinephrine, as you see here, and the inside vial there was a

1 heparin bottle.

2 **Q And it does appear -- if you can read to me, what is the**

3 **name of the person who wrote this prescription?**

4 A The prescribing prescription is Dr. Maryanne Phillips.

02:03PM 5 **Q Okay. Turning to page 1109. I'll ask you, too, was**

6 **this also located in the operating room, the surgery room?**

7 A That's correct. Towards the back of the table, the head

8 of the procedure table, there was an additional Mayo stand where

9 we located the propofol. This one appears to have propofol

02:03PM 10 inside.

11 **Q Okay. So this was one of the full bottles that you**

12 **discovered, of propofol?**

13 A Yes.

14 **Q Turn to page 1110. What do you have here?**

02:04PM 15 A This is a patient-specific vial with clindamycin, which

16 is essentially an antibiotic. That was located inside the

17 procedure room, inside the cabinet.

18 **Q Okay. If you look to the right side of that picture, of**

19 **the bottle, the right side of the bottle, is there a prescriber**

02:04PM 20 **there too?**

21 A Phillips.

22 **Q Okay. I'm going to skip the next one. Let me see here.**

23 **Well, actually I won't.**

24 **1111, what do we have here in this picture?**

02:05PM 25 A The two vials that were located in the same procedure

1 room, they appear to have been patient specific with the names
2 ripped off, and the labels.
3 And, again, they are forms of antibiotics. And on one
4 of them I can still see prescriber was Phillips.
02:05PM 5 **Q And on page 1112, what is that?**
6 A That's a defibrillator located in the procedure room.
7 **Q I'll ask you about 1113. Is that a --**
8 A 1113?
9 **Q Yeah. Is that the same picture as -- let's see. Is**
02:06PM 10 **that the same as 1109, just pulled back a little bit?**
11 A There were two vials of propofol on that same Mayo
12 stand. One was full, one was empty.
13 **Q Okay. Was one empty because it was already in --**
14 **somewhere else, ready to go for surgery, if you know?**
02:06PM 15 A Yes. In the photos there's a pre-drawn syringe full of
16 propofol.
17 **Q Say that one more time.**
18 A A pre-drawn syringe full of propofol.
19 **Q Kim, if you know -- Ms. Friedman, excuse me -- if you**
02:07PM 20 **know, why would Vida Spa have patient specific medications all**
21 **ready to go if the patients are not present, if that patient is**
22 **not present, if you know?**
23 A Are you referring to the antibiotics? Or the --
24 **Q Yeah, some of the ones we saw in the previous pictures,**
02:07PM 25 **like on 1110, there's some antibiotic there with a name on there.**

1 A Correct. That is the same patient that we ran into
2 previously with the Pharmacy Board, where they would write a
3 prescription for patients, patients would bring in the
4 prescriptions, but they would keep the remaining prescriptions.
02:07PM 5 **Q Who would keep them?**
6 A And essentially -- Vida Spa. And essentially they would
7 use it to dispense to other patients that would come in.
8 **Q Okay.**
9 THE HEARING OFFICER: I'm going to interrupt you for a
02:08PM 10 minute, Ms. Friedman.
11 Can you clarify for me what evidence you have that
12 that's what they were doing, that they would actually take
13 prescriptions from one patient and then give those to another?
14 How do you know that to be the case?
02:08PM 15 THE WITNESS: The only way that I was able to verify
16 some of that was in prior investigation with other procedures,
17 where medications prescribed for specific amounts was on this
18 prescription. The patient record identified a certain amount
19 administered to that patient, and then there was a remainder of
02:08PM 20 that prescription left in the facility.
21 In other instances we had patients that were prescribed
22 a certain amount of medication -- or excuse me, they were not
23 prescribed medication, but their records reflected administration,
24 the administration of medication, which was similar to what was
02:09PM 25 just left behind from other patients.

1 I was unable to get any verbalization or validation from
2 anybody that that's what was transpiring. We can only go based on
3 what the evidence that we have, between the records and medication
4 vial.
02:09PM 5 THE HEARING OFFICER: Thank you very much. You've
6 answered my question.
7 BY MR. WHITE:
8 **Q And just to kind of follow up, Ms. Friedman, as you**
9 **stated before in your testimony, were you investigating more than**
02:09PM 10 **one provider, and was this sort of early in that investigation, of**
11 **all these providers?**
12 A That's correct.
13 **Q So, fair to say, you were still gathering a lot of**
14 **evidence that you didn't know how it was going to fit together**
02:09PM 15 **right away at that point?**
16 A That's correct.
17 **Q I think we left off, 1114. Please turn to that page.**
18 A This is medication found on that same Mayo stand located
19 in the back of the procedure room. This is lidocaine and propofol
02:10PM 20 injectable.
21 **Q So when you were talking about there was a drawn syringe**
22 **of propofol with an empty bottle, is that what we're looking at in**
23 **this picture?**
24 A Yes.
02:10PM 25 **Q Please turn to page 1116 -- oh, sorry. Did I skip**

1 **something? I think I did.**
2 **Okay. You can see part of the syringe is in 1114,**
3 **sorry, to clarify.**
4 **1115, is that just a wider angle of what we've been**
02:10PM 5 **talking about and what we've seen?**
6 A That's correct.
7 **Q Okay. And it shows the syringes pretty clearly in that**
8 **picture; correct?**
9 A Yes, there's three syringes.
02:11PM 10 **Q Would you turn to page 1116, please.**
11 A Okay.
12 That's the procedure table located in the center of the
13 room.
14 **Q And what do we have on -- thank you. Yeah, it gives us**
02:11PM 15 **a good picture of that. Thank you.**
16 **And what is over to the left in the picture?**
17 A To the left, I -- I don't recall what that machine was,
18 if that was part of the liposuction. It's not a centrifuge, but I
19 don't recall what that machine was.
02:11PM 20 **Q Okay. And over to the right?**
21 A Over to the right is the Mayo stand that contained the
22 pre-drawn syringes, the lidocaine, and the propofol.
23 **Q Okay. Thank you. Where in this picture -- the 1116**
24 **kind of gives us a good idea what the room looks like. If you**
02:12PM 25 **could, did you find the sedation logs in this room also?**

A Yes, I did.

Q Can you point out -- I know that maybe it isn't in the picture, but maybe you could point out to where it was in regards to this picture.

02:12PM A Yes. So if you're looking at Exhibit 1116, at the patient bed, to the right was the table where the patient chart was. To the left was the countertop where the sedation log was.

Q Okay. Thank you. So you were there about six, six and a half hours. Was -- did you ever see Dr. Phillips at that

02:13PM **inspection that day, on June 23rd?**

A No. They informed us upon arrival at 10:00 a.m. that Dr. Phillips was on her way to perform a procedure. Ms. Molina informed us of that. Staff informed us of that.

When Giselle Platfoot finally arrived, Giselle stated

02:13PM that Dr. Phillips was on her way.

She left the room, returned shortly thereafter. And because Dr. Phillips was informed that we were from -- the Compliance Medical Board was there, that she was not going to arrive.

02:13PM **Q And did she?**

A She did not.

Q What happened to the patient, EG, that was there?

A She was sent home.

Q Who sent her home?

02:14PM A Giselle.

1 **Q So during that whole visit, who did you see from**
2 **Vida Spa, and out of those people, who did you speak with?**
3 A Mostly Giselle. Ms. Molina was interviewed by -- a
4 little bit by myself and Health Care Quality Compliance,
02:14PM 5 essentially, what was transpiring, what was transpiring with the
6 procedures, what she does with the procedures.
7 And then the rest of the visit was reviewing some of the
8 patient charts from the sedation log.
9 **Q Okay. And this is also where you requested a copy of**
02:15PM 10 **the sedation log and some records?**
11 A That is correct.
12 **Q And some records -- and brought them back with you to**
13 **the office?**
14 A Correct.
02:15PM 15 **Q Did you speak with any other people, like staff or**
16 **anything like that?**
17 A No, not much at that time, no.
18 **Q What time of day did you go?**
19 A 10:00 a.m.
02:16PM 20 **Q Now your allegation letter went out in March sometime;**
21 **is that correct?**
22 A Correct. If I remember, correct.
23 **Q Yeah, I think. Okay.**
24 **It's Exhibit 4, and went out on March 19th, 2021?**
02:16PM 25 A That's correct.

1 **Q Okay. And at that point you had made the allegations.**
2 **When did you send a request for records? That would have been**
3 **your second request; is that correct? Because I think you stated**
4 **before that you didn't ask for records immediately in the**
02:16PM 5 **allegation letter.**
6 A Correct. The request for records were sent directly to
7 Vida Spa.
8 **Q Okay. And that would have been the second request?**
9 A Not to -- not the second request, it would have been in
02:17PM 10 the future.
11 I sent the records for the sedation chart directly to
12 Vida Spa on -- actually hand-delivered the subpoena on June 25th,
13 2021.
14 **Q Okay. But in the -- yeah, and we'll get into that for**
02:17PM 15 **sure.**
16 **But in 5, on Exhibit 5, there's a second request for**
17 **record -- oh, no, is the second request for response, is that what**
18 **you were asking for?**
19 A Correct.
02:17PM 20 **Q Okay. At this point you still had not asked for**
21 **records; is that right?**
22 A That's correct.
23 **Q Okay. All right. But you did receive records, and we**
24 **have a lot of records we've had admitted now, for all those**
02:18PM 25 **patients we talked about, from the sedation log, and that was due**

1 **to a subpoena that you hand-delivered?**
2 A To Vida Spa, correct.
3 **Q Now, did you receive, for any of those patients, which**
4 **number about 59, did you receive a sedation log for any of those**
02:18PM 5 **people?**
6 A No, I did not.
7 **Q Okay. Was there any discussion, when you -- when you**
8 **discovered the sedation log, if you did -- did you discover it**
9 **first?**
02:18PM 10 A The sedation log was actually discovered by one of the
11 inspectors at Health Care Quality Compliance, who noticed it. And
12 then I went over and took a look at the sedation log.
13 **Q Okay. And did you -- was anybody there that was -- that**
14 **you could talk to about the sedation log, to ask them questions?**
02:18PM 15 A Yes, Kristin Molina, the RN.
16 **Q What did you -- did you ask her any questions about**
17 **that?**
18 A Yes, I asked her why there was a sedation log of
19 propofol on the opposite end of the room. And Ms. Molina stated
02:19PM 20 that that's where they kept the log. That's where they kept the
21 information of all propofol that was administered to the patients.
22 **Q And did you ask her why it was across the room and why**
23 **it wasn't next to any other patient charts?**
24 A Ms. Molina informed us that she was required to keep the
02:19PM 25 log, that both Giselle and Dr. Maryanne Phillips had them keep a

1 separate log of the sedation.

2 **Q Did she give a reason for that?**

3 A She did not.

4 **Q I'm going to go back to Patient EG just a little bit.**

02:20PM 5 **So you had seen Patient EG. We just saw the photo you**

6 **took of the records, right, that she was supposed to be there at**

7 **9:15, right?**

8 A Correct.

9 **Q Okay. I want you to turn to what's been admitted as**

02:21PM 10 **Exhibit 37.**

11 A Okay.

12 **Q Now you had stated before that Ms. Platfoot sent EG**

13 **home, right?**

14 A That's correct.

02:21PM 15 **Q Okay. Now, taking a look at Exhibit 37, page 736, the**

16 **very first page of that exhibit, who does this appear to be**

17 **records for?**

18 A The same patient, EG.

19 **Q What date?**

02:21PM 20 A 6/23/2021.

21 **Q And do you see a time there?**

22 A Yes. 1815.

23 **Q So that would convert to what, 6:15?**

24 A 6:15.

02:22PM 25 **Q And if you just kind of page through it, page by page,**

1 **it appears that -- does it appear that that surgery was done that**
2 **night?**
3 A It was done that night.
4 **Q And specifically, if you go to page 740 of the medical**
02:22PM 5 **records, I would like you to go down to where it says procedure.**
6 **What did EG have done?**
7 A Liposuction 360 with fat transfer. Or, I'm sorry, they
8 put down the amount of fat that was removed.
9 **Q Yeah, I don't see transfer. It's just Lipo 360?**
02:23PM 10 A Yes. Lipo 360.
11 **Q Okay. Give me one second. I'll submit this is one of**
12 **the ones, if you go to page 741, this is one of the rare times**
13 **that it doesn't appear that Dr. Phillips signed it, either in the**
14 **part where it says MD/PA or anesthesiologist.**
02:23PM 15 **However, if you do go to page 763, where the blood**
16 **workup was ordered -- actually, this is a report of the blood**
17 **workup. It does say physician is who?**
18 A Maryanne Phillips.
19 **Q So we can safely assume that despite you and the Bureau**
02:24PM 20 **of Health Compliance, Health Quality Compliance being there for**
21 **six and a half hours that day, and that patient being sent home,**
22 **that patient come back and get a surgery that night?**
23 A Yes. And it was confirmed by the nurse that assisted in
24 the procedure.
02:24PM 25 **Q Turning to page 746.**

1 A Okay.
2 **Q What is this -- what is this page?**
3 A It's a Consent For Surgery and Procedures.
4 **Q Okay. With EG's name, correct?**
02:25PM 5 A Correct.
6 **Q And it also states the same procedure that we saw in**
7 **another document?**
8 A Correct, Liposuction 360.
9 **Q And then at the very bottom there's a witness, and**
02:25PM 10 **there's a name written in. Who is that?**
11 A That's Kristin Molina.
12 **Q And dated?**
13 A 6/23/21.
14 **Q So is that -- that's the same person that you spoke to**
02:26PM 15 **while you were there doing your inspection?**
16 A That's correct.
17 **Q I want to turn to Exhibit 4 again, your allegation**
18 **letter, Ms. Friedman.**
19 A Okay.
02:26PM 20 **Q Specifically, I want to kind of focus in on question 7**
21 **and 8 on page 16.**
22 A Okay.
23 **Q So could you read out loud what you wrote in those**
24 **questions, starting with seven?**
02:27PM 25 A "It is further alleged you performed MAC sedation during

1 liposuction procedure at Vida Spa, LLC, located at 3225 South
2 Rainbow Boulevard, Suite 107, Las Vegas, Nevada, 89146. However,
3 this facility is not licensed as a medical facility. Therefore,
4 you may be in violation of NRS 630.373."
02:28PM 5 **Q So would it be fair to say that as of a little after**
6 **March 19th, when she received this, Dr. Phillips was put on notice**
7 **that she was being looked at for a possible violation of NRS**
8 **633.373?**
9 A Yes.
02:28PM 10 **Q And then, going to 8?**
11 A "It is further alleged you have continued to perform
12 liposuction procedures with sedation at Vida Spa, LLC, for
13 multiple patients, even though the facility is licensed as a
14 cosmetology establishment and not a medical facility."
02:28PM 15 **Q Okay. Turning to Exhibit 6, please.**
16 A Okay.
17 **Q Which has been admitted as the response from Ms. Beggs**
18 **on behalf of Dr. Phillips.**
19 **Turning specifically to page 22, there's a sentence in**
02:29PM 20 **the second paragraph that begins with "typically." If you can see**
21 **it?**
22 A I don't see where it beings with "typically."
23 **Q Are you on page 22?**
24 A Yes.
02:29PM 25 **Q It's in the middle of the second -- it's kind of a third**

1 **of the way down in the second paragraph.**
2 A Oh, yes.
3 **Q Do you see that? I would like you to read that out**
4 **loud. "Typically"?**
02:30PM 5 A "Typically, only local tumescent anesthesia was utilized
6 and was administered by Ms. Hankins, but on a few occasions
7 Dr. Phillips would be requested to administer propofol during
8 these procedures as needed.
9 "These procedures were not performed by Dr. Phillips but
02:30PM 10 rather by other providers at Vida Spa as further discussed herein.
11 "As an initial matter, it should be noted that at no
12 time has Dr. Phillips ever administered, prescribed or possessed
13 controlled substances while practicing at Vida Spa."
14 **Q Okay. Thank you. I'll stop you there.**
02:30PM 15 **So that first sentence, does that appear that**
16 **Dr. Phillips is admitting that she used propofol?**
17 A Yes.
18 **Q Okay. Even though a little further down she does deny**
19 **prescribing anything, or at least controlled substances, and that**
02:31PM 20 **she didn't do the -- she actually didn't do the procedures, they**
21 **were done by other providers at Vida Spa.**
22 A Correct.
23 **Q So I want you to turn to page 25 of that same letter.**
24 A Okay.
02:31PM 25 **Q And you'll see there that there's kind of a reprint of**

1 **your question 7 and 8.**
2 A Yes.
3 **Q And I would like to you read their answer or**
4 **Dr. Phillips' answer for 7.**
02:31PM 5 A "Dr. Phillips first notes that conscious sedation need
6 not be administered solely in a medical facility, but rather in
7 the office of a provider or other facility which holds a permit to
8 administer conscious sedation pursuant to Chapter 449.
9 "Dr. Phillips was not aware that Vida Spa did not hold
02:32PM 10 the necessary permits as such procedures had been performed prior
11 to Dr. Phillips contracted with Vida Spa, and she was led to
12 believe all proper permits and certifications were in place.
13 "Dr. Phillips notes that no conscious sedation was
14 administered to any patient after the incident in June 2020."
02:32PM 15 **Q So when we take a look at the behavior of Dr. Phillips**
16 **on the day of June 23rd when you were there, she didn't even come**
17 **in because she knew you were there, right?**
18 A Correct.
19 **Q Somebody told her you were there.**
02:32PM 20 **So yet she states in this letter that she just wasn't**
21 **aware that they didn't hold the correct permits?**
22 A Correct.
23 **Q So in all your experience as an investigator for the**
24 **Board, does that sound like -- does her just not showing up and**
02:33PM 25 **being called and told not to show up because there are inspectors**

1 **there from a couple of different agencies, does that sound like**
2 **somebody who just didn't know they were doing anything wrong?**
3 A No, it does not.
4 **Q Okay. I would like you to move on to number 8, the**
02:33PM 5 **answer to number 8.**
6 A "Dr. Phillips did not perform liposuction procedures at
7 Vida Spa and never has. Such procedures have always been
8 performed by other licensed providers at Vida Spa. As noted
9 above, no conscious sedation has been utilized at Vida Spa since
02:33PM 10 June 2020, only tumescent local anesthesia is being used at this
11 time."
12 **Q So I want you to flip over to -- I actually want you to**
13 **you look at the sedation log because I want to be able to connect**
14 **this for everybody, because -- we know the evidence, we've seen**
02:34PM 15 **it. I want to be able to connect everything and I know it's going**
16 **to take a little time, but go to the sedation log, which is 11,**
17 **please.**
18 A Okay.
19 **Q And I want you to -- near the bottom -- again, I've got**
02:35PM 20 **to be careful, I don't want to read out the patient's name -- but**
21 **near the bottom, on May 17th, 2021.**
22 A Okay.
23 **Q Do you see a patient with the initials SC?**
24 A Yes.
02:35PM 25 **Q Okay. All right. So just going through that really**

1 **quickly, name of the medication was -- what was administered?**
2 A Propofol.
3 **Q How many vials does it say here?**
4 A 25.
02:35PM 5 **Q Okay. Looks like the treatment, you can make it out a**
6 **little bit, I think they used some initials. Can you see it?**
7 A Yes, Lipo 360 with a BBL.
8 **Q Yeah. Now I want you to turn to Exhibit 58. I'll**
9 **submit that we're going to try to look at the medical records for**
02:36PM 10 **that same patient.**
11 A Okay.
12 **Q Is this the same patient that you just saw in the**
13 **sedation log?**
14 A Yes, it is.
02:36PM 15 **Q Same date too?**
16 A Correct.
17 **Q I want you to turn to page -- you know, there's medical**
18 **records. There's lots of things written in here, I'll submit**
19 **that, but -- as we get there, but if you turn to page 1329 of this**
02:37PM 20 **exhibit, do you see -- --**
21 A Okay.
22 **Q -- a signature there?**
23 A Yes, I do.
24 **Q And is M.D. circled?**
02:37PM 25 A Yes, it is.

1 **Q Whose signature does that appear to be?**
2 A It appears to be Maryanne Phillips.
3 **Q Okay. And going back, I'm sorry, to the beginning -- or**
4 **actually, let's see. Sorry.**
02:37PM 5 **Go to the page right before, 1328.**
6 A Okay.
7 **Q What procedure was done there?**
8 A Liposuction 360, chin, arms, thighs, with fat transfer
9 to the buttocks and breasts.
02:38PM 10 **Q And if we flip back to -- I'm sorry to be keep going**
11 **back and forth -- but if we flip back to number 6, which is the --**
12 **I want you to hold this one, too, at number -- I want you to go --**
13 **I want to compare dates here.**
14 **We have this SC was a patient on 5/17/2021. And when**
02:38PM 15 **did Ms. Beggs date her letter on behalf of Dr. Phillips?**
16 A The date on this is May 19th, 2021.
17 **Q So just merely two days after doing liposuctions, she**
18 **states in here that she never does liposuctions, in her response**
19 **letter; would that be fair to say?**
02:38PM 20 A Correct. Correct.
21 **Q Let's go back to the sedation log, 11. I'm just going**
22 **to do a few of these, everyone, to just kind of give you the idea.**
23 **I want you to look for the date, it's the middle of**
24 **page 48, in the sedation log, and it's the date of 4/30/2021.**
02:40PM 25 A Okay.

1 Q **Do you see one with the initials AR?**
2 A Yes, I do.
3 Q **Okay. And was propofol used on this person too?**
4 A Propofol is listed as medication.
02:40PM 5 Q **And let's go to Exhibit 43.**
6 A Okay.
7 Q **Is that the same patient?**
8 A Yes, it is.
9 Q **Okay. I forgot to ask on the last one, but I'll submit**
02:41PM 10 **that you won't find it, do you see propofol anywhere listed in**
11 **these medications on the very first page of Exhibit 43?**
12 A I do not.
13 Q **Okay. And what was the procedure, which is on page 934?**
14 A Liposuction 360, fat transfer, breasts.
02:42PM 15 Q **I'm sorry, just to kind of -- you might still have it**
16 **open anyway -- I want to go to page 1324 of Exhibit 58.**
17 A Okay.
18 Q **This was SC again, we just went over?**
19 A Correct.
02:42PM 20 Q **Again, do you see propofol listed as any of the**
21 **medications, of a number of medications, listed here?**
22 A I do not.
23 Q **Okay. And kind of tying it together, Ms. Friedman, your**
24 **initial letter for -- allegation letter went out in March. This**
02:42PM 25 **is, for SC, was March 17th, after you had put her on notice about**

1 **using propofol at an unaccredited location; fair to say?**
2 A That's correct.
3 **Q Would you be surprised if I asked you a question, that**
4 **none -- there's no propofol listed in any of these medical records**
02:43PM 5 **that came after your allegation letter? Would you be surprised?**
6 A Am I surprised?
7 **Q Yeah.**
8 A It's surprising because it's not normal.
9 **Q Not normal?**
02:43PM 10 A Correct.
11 **Q Yeah.**
12 A To list a medication that is given to a patient.
13 **Q So at least as you sit here today, with all your**
14 **experience as an investigator, you would expect to see propofol**
02:44PM 15 **listed in these lists of medications for all these patients?**
16 A Yes.
17 MR. WHITE: For the sake of time, I will -- I will
18 submit that you won't find, in many of these patients, you won't
19 find propofol listed in the medications, as far as the ones that
02:44PM 20 were in 2021, that came from the sedation lists.
21 And those are dates between April 13th, 2021, and
22 June 23rd, 2021.
23 Indulgence, please?
24 THE HEARING OFFICER: Uh-huh.
25 ///

BY MR. WHITE:

Q So my next question for you, Ms. Friedman, is would you recognize Dr. Phillips if you saw a picture of her, or a video?

A Yes, I would.

02:46PM **Q Okay. We're going to show you one or two videos that have been admitted into evidence, and we'll all watch it, and we'll still be able to see you and you'll be able to see us on sort of a smaller screen.**

(The video was played.)

02:48PM MR. WHITE: We're going to roll back a little bit because there's a better -- you can actually see a view of the doctor.

All right.

(The video was played.)

02:48PM BY MR. WHITE:

Q I'm going to stop for a second, Kim, or Ms. Friedman. Do you recognize that person?

A Yeah, that appears to be Dr. Phillips.

Q How sure are you?

02:49PM A I would say probably, from the side angles, 80 percent.

Q Okay.

(The video was played).

BY MR. WHITE:

Q All right. Ms. Friedman, we have stopped it for you

02:53PM **there.**

1 **On part of the video -- we just watched the whole thing.**
2 **Do you recognize that person?**
3 A Yes, I do.
4 **Q Who is that?**
02:53PM 5 A That's Dr. Maryanne Phillips.
6 **Q And how sure from this picture?**
7 A 99.9 percent sure.
8 **Q Do you also recognize her voice in that video?**
9 A Very much so. I've heard her voice a few times.
02:53PM 10 **Q Would you say that's her saying, "I put back 30 CCs," or**
11 **something like that, when she was talking about the chin?**
12 A Yes.
13 **Q Thank you.**
14 **We're going to show you one more video, Ms. Friedman.**
02:54PM 15 A Okay.
16 (The video was played.)
17 BY MR. WHITE:
18 **Q Okay. Ms. Friedman, were you able to hear that they**
19 **offer sedation?**
02:57PM 20 A Yes.
21 **Q And I guess I would ask you one more time, who is the**
22 **person -- do you see Dr. Phillips out of these two people in this,**
23 **that stopped --**
24 A Yes, sir. I do.
02:57PM 25 **Q How sure are you that that's her?**

1 A 100 percent.
2 **Q Ms. Friedman, do you now have a copy of that email in**
3 **front of you?**
4 A Yes, I do.
02:57PM 5 **Q Okay. Great. And what I'm talking about is the email**
6 **that I believe was sent to you from McKesson.**
7 A Correct.
8 **Q Okay. Which is, if you need to look at it, it's -- oh,**
9 **I'm sorry, it's a spreadsheet that we have to put up on the video.**
02:58PM 10 **Do you want to do it?**
11 MS. BYRD: Sure.
12 BY MR. WHITE:
13 **Q Okay. You saw this before when we were going through it**
14 **for admission purposes.**
02:58PM 15 A Yes.
16 **Q Is this what you received from McKesson Surgical?**
17 A Yes.
18 **Q And just one more time, what does this appear to be?**
19 A It appears to be the medications that were ordered by
02:59PM 20 Dr. Maryanne Phillips for Vida Spa.
21 **Q Okay. And for the sake of time and not having to look**
22 **for every one, are we going to see propofol in there a few times?**
23 A Yes.
24 **Q Okay. And so was there an email attached to that when**
02:59PM 25 **it was sent -- was that sent as an attachment in an email?**

1 A That was sent as an attachment in an email.
2 **Q Okay. And is the email that I'm referring to, is that**
3 **now the one that you're looking at, sitting in front of you?**
4 A That's correct.
02:59PM 5 **Q Okay. And it says -- it says it's from somebody. Who**
6 **is that?**
7 A From Krista Johnson.
8 **Q At?**
9 A At McKesson.com.
02:59PM 10 **Q Okay. Give me one moment.**
11 **So this first sentence after it says, "Dear Investigator**
12 **Friedman," could you just read that first? It's a sentence, or**
13 **actually it's two sentences. It's the first paragraph.**
14 A "McKesson Medical-Surgical, Inc., is in receipt of the
03:00PM 15 subpoena seeking records regarding purchases made by Vida Spa and
16 Maryanne Phillips, M.D., account number 62896209, for the time
17 period January 1st, 2019, to July 9th, 2021. Please see the
18 attached file that contains all sales transactions conducted by
19 Vida Spa and Maryanne Phillips, M.D., for the requested time
03:01PM 20 period."
21 **Q Thank you. Had you spoken with Ms. Johnson prior to**
22 **this?**
23 A I did not.
24 **Q How did you -- how did you come to receive this email**
03:01PM 25 **from Ms. Johnson?**

A I sent the subpoena for request for records directly to McKesson legal department.

Q Okay. And as we stated, it is to you, Ms. Friedman; is that right?

03:01PM A That is correct.

MR. WHITE: At this time I would move to admit this email, and if admitted, I suppose we should make it 54A, so it is part of 54, which is the McKesson records.

THE HEARING OFFICER: It's going to be admitted as 54A.

03:02PM (Exhibit 54A admitted into evidence.)

MR. WHITE: Thank you.

BY MR. WHITE:

Q And for a moment, Ms. Friedman, I'll let you go soon, but I want you to take a look at Exhibit 3, what's been already

03:02PM **admitted as the business license.**

A Okay.

Q From Clark County.

A Correct.

Q I just want you to read what it says in the license

03:03PM **category section.**

A "Cosmetology establishment, other services."

Q So you had mentioned before that this isn't a surgical center, it's not registered as that for the business license purposes, it is just a cosmetology establishment?

03:03PM A Correct.

Q Is that where you got that?

A Correct.

Q I'm just going to do a little making sure here.

Would you please turn to Exhibit 90.

03:04PM **Let me just ask, actually, before I have her go to that, is 90 admitted?**

THE HEARING OFFICER: It is.

MR. WHITE: Okay. I just want to make sure. Okay.

Ms. Friedman, I don't think I have anything else for

03:05PM you.

THE WITNESS: Okay.

MR. WHITE: Do you have anything else that you would like to add, or change?

THE HEARING OFFICER: Can you still hear us,

03:05PM Ms. Friedman?

THE WITNESS: I can.

THE HEARING OFFICER: Go ahead and ask that question.

BY MR. WHITE:

Q Do you have anything else you would like to add or

03:05PM **change from what we talked about?**

A No.

THE HEARING OFFICER: Ms. Friedman, I'm going to ask you a couple of questions, all in the same issue. I don't know how many questions it will be, but just to clarify.

1 EXAMINATION

2 BY THE HEARING OFFICER:

3 **Q Exhibit 7, you don't have to look at it, but Exhibit 7,**

4 **is this Dr. Borromeo's letter in response to the allegation**

03:06PM 5 **letter.**

6 **In either of your inspections of the facilities, did you**

7 **ever meet this Dr. Borromeo?**

8 A I did meet with Dr. Borromeo at his office.

9 **Q And was that on one of the two days where you did the**

03:06PM 10 **inspections, or was that something set up separately?**

11 A It was separate from the inspection days.

12 **Q Okay. So can you summarize what you got from meeting**

13 **with him?**

14 A The reason the Pharmacy Board investigator and I met

03:06PM 15 with Dr. Borromeo was because patients' specific controlled

16 substances were located on October 27, 2020, at Vida Spa, which

17 were written by Dr. Borromeo.

18 It was to establish whether or not Dr. Borromeo had a

19 patient/physician relationship with patients whom he wrote

03:07PM 20 controlled substance for.

21 **Q And was there a determination made in that regard?**

22 A Yes, Dr. Borromeo admitted that he had not examined any

23 patients for whom he wrote controlled substance prescriptions for,

24 for Vida Spa.

03:07PM 25 THE HEARING OFFICER: Thank you.

1 Do you have any questions based on those questions,
2 Mr. White?
3 MR. WHITE: No, I don't. Thank you. We covered it.
4 THE HEARING OFFICER: Very good.
03:07PM 5 Ms. Friedman, I think you are free to go at this point,
6 unless Mr. White can think of anything else.
7 MR. WHITE: I hope we have covered just about
8 everything.
9 THE HEARING OFFICER: Thank you very much, ma'am, for
03:08PM 10 your time today.
11 THE WITNESS: Thank you, sir. Thank you, everybody.
12 MR. WHITE: Thank you. Thank you, Ms. Friedman.
13 THE HEARING OFFICER: All right. Mr. White, before --
14 you can tell me, do you want to make a closing argument? Do you
03:08PM 15 want to submit it?
16 If you make a closing argument, I'm certainly going to
17 give our reporter an opportunity to have a break, if you do.
18 MR. WHITE: Would you rather just have me submit in it
19 writing?
03:08PM 20 THE HEARING OFFICER: I'm easy.
21 MR. WHITE: We can take a break. It's not that long.
22 THE HEARING OFFICER: Okay. Are you ready for a break
23 before we close?
24 Let's take a good five minutes. Go off the record.
03:08PM 25 (A recess was taken.)

1 THE HEARING OFFICER: All right. So we're back on the
2 record in the matter of Charges and Complaint against
3 Maryanne D. Phillips, M.D.
4 And, finally, I'll note one more time it's Case Number
03:19PM 5 21-10032-1.
6 And on behalf of the IC, Mr. White has concluded his
7 evidence and now he is going to present some closing argument.
8 Mr. White.
9 MR. WHITE: Thank you, Mr. Woodman.
03:19PM 10 On behalf of the Investigative Committee we'd like to
11 thank you, Hearing Officer Woodman, Madam Court Reporter, for your
12 hard work; and thank, of course, the witnesses for their time and
13 consideration.
14 As I mentioned in my opening statement, we're here to
03:20PM 15 determine if a reasonable basis exists to continue the suspension
16 of Dr. Phillips' license to practice medicine.
17 I'll now break it down and explain how I submit that the
18 IC has met its burden.
19 You've heard at length from Ms. Friedman, senior board
03:20PM 20 investigator from the Nevada State Board of Medical Examiners.
21 She explained that she inspected Vida Spa twice, once in
22 October 2020 and once in June 2021.
23 During those inspections, she was able to gather
24 evidence. And you heard her testimony that she was never sent the
03:20PM 25 sedation log when she requested records.

1 However, she was able to obtain that sedation log, what
2 seems like through just luck, being in the right place at the
3 right time. It happened to be laying on a table. And that
4 obviously spurred on a lot of the investigation in this case,
03:21PM 5 including her getting a subpoena for those records, for those
6 medical records, most of the ones you see here in all these
7 binders, who came from that sedation log.
8 She also was able to take pictures, which you have seen
9 and we went through, of propofol being used, so obviously sedation
03:21PM 10 is being used in a place that's not licensed to use it.
11 She also was able to obtain -- or saw, excuse me -- she
12 saw a patient prepped for surgery. And you heard her testimony
13 that she knows it looks like, what a prepped patient looks like
14 because she was, I think she said, a surgical tech. So she
03:21PM 15 understands what that looks like.
16 And as we went through the evidence, you were able to
17 determine or we were able to establish that that patient, that EG
18 who was there for a surgery in the morning at 9:15, was sent home
19 by Ms. Platfoot because inspectors were, you know, looking at
03:22PM 20 everything at their office.
21 However, EG came back for a surgery, the same surgery
22 that she was scheduled for in the morning, she had exactly that
23 done at, I believe it was 6:15 at night, and it was completed.
24 So definitely some -- we've established that there is
03:22PM 25 some things going wrong there, some things running afoul of the

1 statutes that we have to use in these kinds of cases, under the
2 Medical Practice Act.
3 We were able to establish that, through her
4 authentication, that she compiled nearly all the evidence in these
03:23PM 5 binders that has now been admitted into evidence, except for at
6 least -- except for the settlement agreement and the videos, which
7 we got through and admitted through Ms. Byrd.
8 Ms. Friedman sent Dr. Phillips a detailed allegation
9 letter, we went through that, to which Dr. Phillips did not answer
03:23PM 10 entirely truthfully.
11 In fact, two days after doing -- using propofol on a
12 patient, and doing, which was, I think SC, and then doing a
13 liposuction on SC, two days later she had her attorney write a
14 letter stating that she never did liposuctions, and she only used
03:23PM 15 propofol -- in one of the paragraphs in her response, she said she
16 only used it as needed, thereby also admitting that she used
17 propofol in a place that wasn't licensed.
18 And I think we were also able to establish that the
19 behavior of Dr. Phillips and, really, Ms. Platfoot in calling
03:24PM 20 Dr. Phillips the day of the June 23rd, 2021, inspection, does not
21 show somebody who didn't know that she was working at an
22 unaccredited location.
23 Dr. Phillips, her behavior shows somebody who very well
24 knew that she was doing something wrong and skirting around the
03:24PM 25 statutes, because she didn't come in that day -- well, until later

1 that night when everybody -- when all the inspectors had left and
2 gone away, and then they did a surgery on EG later that night.
3 We were able to establish through Ms. Friedman also that
4 the medical records that she compiled from the subpoena in
03:25PM 5 Exhibit 90, that came from the sedation log, the same names, did
6 not contain propofol in the medical records. Again, showing an
7 effort to conceal the use of propofol.
8 I don't see any reason why you would have the -- use
9 propofol in a sedation log, which is being used for whatever
03:25PM 10 reason, but then not putting it in the medical records, which is
11 kind of also dangerous, a dangerous thing. If you kind of
12 extrapolate a little bit, if a doctor from another office orders
13 the medical records for this surgery to see what happened to that
14 patient at a year or two down the road, they are not going to have
03:25PM 15 this patient was on propofol, if they order the medical records.
16 And they are probably, I'm going to say, I would submit
17 they would not get the sedation log, because one of the reasons
18 they won't get it is it has everybody's name in a row, so it would
19 be a violation of HIPAA to send that sedation log to anybody,
03:26PM 20 really. If you were just trying to send it for one patient, you'd
21 have all those other names on there if they weren't redacted
22 somehow.
23 As I did during testimony with Ms. Friedman, I did
24 submit that you will not find propofol listed in any of those 59
03:26PM 25 patients' medical records. I did that for the sake of time. We

1 didn't go through all 59. We went through about four of them.
2 Lots of them are signed by Dr. Phillips in the M.D.
3 section, some are signed right over the middle, because on one
4 side it says M.D. and there's a circle around M.D., and then
03:26PM 5 there's anesthesiologist on the other side, and it leaves a space
6 for that.
7 Sometimes she signs it in the middle. You'll see that
8 too. We didn't get totally into that, but there are some that you
9 will see like that.
03:27PM 10 Ms. Friedman was also, through an exhibit, was able to
11 show you that some of the evidence she obtained shows that this is
12 just a cosmetology establishment. They are not allowed to do
13 sedation without a permit, and did -- and are not allowed to
14 perform surgeries there. Again, it's a cosmetology establishment.
03:27PM 15 It is not, according to NRS 449, a place to do a
16 surgery, unless there's the proper permitting, which they do not
17 have.
18 You also heard from Patient A. You heard mostly about
19 her experience, being a patient of Vida Spa from the beginning,
03:28PM 20 starting on March 18th, 2021, when she first visited, all the way
21 to the end, I guess a couple of days after her surgery on
22 May 20th, 2021.
23 But you heard about how terrible her experience was and
24 how frightening it was to her. She hears a woman who looked on, I
03:28PM 25 guess it showed up as she stated in her testimony, it showed up on

1 her feed on Instagram, and she clicked on it and had been looking
2 around, and it was much less expensive than other places she had
3 looked.
4 She looked at the comments, some of the reviews, and all
03:28PM 5 seemed really great, except that you also hear from her that they
6 didn't contact her between March and May, except to try and change
7 the time of her surgery. And she was constantly calling them.
8 No one really checked on her to see if she was doing
9 okay, or if she was still ready and willing to do the surgery, not
03:29PM 10 to mention she signed a consent form minutes before going into a
11 room to have surgery, where, and you heard her state, yeah, I
12 would have really liked to have had that consent form back in
13 March, I could have taken time to review it brought it back at my
14 own leisure. She did not have that opportunity.
03:29PM 15 She testified that she was frightened or fearful and
16 nervous and that it was odd to be getting liposuction -- and I'm
17 paraphrasing, excuse me for that -- but that it was odd to be
18 getting liposuction in the evening at Vida Spa, coming in at 5:30
19 when she was actually scheduled originally for a 10:30
03:29PM 20 appointment.
21 We don't know the reason for that. We don't have the
22 other side here to offer that.
23 I also think, while I'm thinking about it, we also don't
24 know how much experience Dr. Phillips has, or training, at doing
03:30PM 25 liposuctions. I'll submit I don't think it's very much, but we

1 don't have her here to refute that.

2 So, you know, you heard this straight from a member of

3 the public, a patient, and that's what the Board -- those are the

4 people the Board has a duty to protect. And hearing it straight

03:30PM 5 from Patient A, I hope was helpful.

6 She is still experiencing a lot of pain. She testified

7 that she still has bumps where I suppose it should be smooth now.

8 She paid $6500 for a procedure and it's not what she wanted at

9 all. Her experience was, as she stated, absolutely awful. She's

03:30PM 10 not satisfied. She's a thousand percent dissatisfied.

11 I would submit that her testimony, along with all the

12 other testimony that you heard from Ms. Friedman, would establish

13 that Patient A and other patients were and are at risk of imminent

14 and continued harm, per this summary suspension statute, which is

03:31PM 15 630, NRS 630.326.

16 Just as a side note, Ms. -- or, excuse me, Patient A was

17 able to 1,000 percent identify in the video Dr. Phillips and

18 Giselle Platfoot.

19 Kind of going back to the evidence of concealing the use

03:31PM 20 of propofol, this goes more towards Ms. Friedman's testimony,

21 again, there's no propofol listed in the medical records after

22 Ms. Friedman sent her allegation letter, at least the ones that we

23 got per our subpoena from the sedation log. There's no -- there's

24 no propofol listed. Yet we have a sedation log that's in evidence

03:32PM 25 that shows there was propofol given on those dates to the same

1 patients. Easy to match up.

2 One more thing about Patient A, I just wanted to make

3 sure that this is still in there. She did testify that

4 Dr. Phillips did not perform any follow-up visit that would be

03:33PM 5 required by a surgeon at all.

6 In fact, somebody else removed her drains. She thinks

7 it was a nurse, one of the nurses that was also sort of the

8 massage therapist, I think, is what I took from that. So somebody

9 else had to remove the drains that were placed in her following

03:33PM 10 the surgery.

11 The only time -- in fact, the only time she saw

12 Dr. Phillips was the day of the surgery. She didn't see her

13 before. She had never met her. And then Dr. Phillips was quickly

14 out the door after the surgery. I guess she was already gone even

03:33PM 15 before Patient A got in the car.

16 So we have provided and presented several violations of

17 the various statutes that are addressed in the summary suspension

18 order, that right now -- I mean it's temporary, but I think we've

19 presented enough evidence to make it indefinite and to continue on

03:34PM 20 with the summary suspension of Dr. Phillips pursuant to

21 NRS 630.326.

22 All of that evidence we presented establishes that a

23 reasonable basis exists that Dr. Phillips' license to practice

24 medicine should remain suspended as she puts the health, safety

03:34PM 25 and welfare of the public, or any patient served, at risk of

1 imminent or continued harm. Thank you.

2 THE HEARING OFFICER: Thank you. All right. We're off

3 the record.

4 And that should conclude the record.

03:34PM 5 (The proceedings concluded at 3:34 p.m.)

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1 STATE OF NEVADA)
) ss.
2 WASHOE COUNTY)

3

4 I, CONSTANCE S. EISENBERG, a Certified Court Reporter,
5 do hereby certify:
6 That on Wednesday, August 18, 2021, at the hour of 9:07
7 a.m. of said day, at the Nevada State Board of Medical Examiners,
8 9600 Gateway Drive, Reno, Nevada, I was present and took verbatim
9 stenotype notes of the proceedings held before CHARLES B. WOODMAN,
10 ESQ., Hearing Officer in the within-entitled matter, and
11 thereafter transcribed the same into typewriting as herein
12 appears;
13 That I am not a relative nor an employee of any of the
14 parties, nor am I financially or otherwise interested in this
15 action;
16 That the foregoing transcript, consisting of pages 1
17 through 165, inclusive, is a full, true and correct transcription
18 of my stenotype notes of said proceedings.
19 DATED: At Reno, Nevada, this 27th day of August, 2021.
20
21
22 Constance S. Eisenberg
23 CONSTANCE S. EISENBERG
NV CCR #142, RMR, CRR
24
25

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BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **MARYANNE DEFOREST PHILLIPS, M.D.,** **License No. 7635.**	**Case No. 21-10032-1** FILED JUN 28 2022 NEVADA STATE BOARD OF MEDICAL EXAMINERS By:

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

PREHEARING CONFERENCE STATEMENT OF THE INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board) submits the following Prehearing Conference Statement in accordance with NAC 630.465 and the Hearing Officer's Notice and Order Scheduling Pre-Hearing and Hearing, filed on March 4, 2022.

I. LIST OF WITNESSES

The IC of the Board lists the following witnesses whom it may call at the hearing on the charges in the Complaint against Respondent filed herein:

a. Johnna LaRue, Deputy Chief of Investigations
Nevada State Board of Medical Examiners

Ms. LaRue is expected to verify documentary evidence obtained during the investigation of this case and testify regarding the investigation of this matter.

b. Maryanne Deforest Phillips, M.D.

Dr. Phillips is expected to testify regarding the facts and circumstances surrounding the formal Complaint in this case.

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c. Patient A[1]

Patient A was a patient of Respondent in this case and she is expected to testify as to the facts and circumstances surrounding the formal Complaint in this matter.

d. Margaret Francis Byrd, Legal Assistant
Nevada State Board of Medical Examiners

Ms. Byrd is a Legal Assistant employed by the Nevada State Board of Medical Examiners and is expected to testify regarding facts and circumstances surrounding video evidence submitted as exhibits by the Investigative Committee.

e. Tiffany D. McCormack, M.D., F.A.C.S.

Dr. McCormack is a Board-Certified Plastic Surgeon and is licensed to practice medicine in the State of Nevada. Dr. McCormack has conducted a medical review of this case and is expected to testify regarding her medical review of this matter and the applicable standard of care.

f. Mark E. Janes, M.D.

Dr. Janes is a Board-Certified Anesthesiologist and is licensed to practice medicine in the State of Nevada. Dr. Janes has conducted a medical review of this case and is expected to testify regarding his medical review of this matter and the applicable standard of care.

g. All witnesses identified by Respondent in her prehearing conference statement and/or in any subsequent amended, revised or supplemental prehearing conference statement, or list of witnesses disclosed by Respondent of persons she may call to testify at the hearing herein.

The IC reserves the right to amend and supplement this list as required for prosecution of this case.

II. LIST OF EXHIBITS

The IC of the Board lists the following exhibits that it may introduce at the hearing on the charges and formal Complaint against the Respondent. Additionally, the IC of the Board reserves the right to rely on all exhibits listed in Respondent's prehearing conference statement and any supplement and/or amendment thereof.

[1] Patient A's true identity is not disclosed herein to protect her privacy, but is disclosed in the Patient Designation filed and served alongside the formal Complaint in this case.

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EXHIBIT NO.	DESCRIPTION	BATES RANGE (NSBME)
1	2019 Settlement Agreement Signed by Respondent	001-010
2	Nevada Secretary of State Information for Vida Spa, LLC	011-013
3	Clark County Business License Search Results for Vida Spa	014
4	March 19, 2021 Allegation Letter to Respondent with Request for Records	015-019
5	April 27, 2021 Second Request for Response	020
6	May 19, 2021 Respondent's Response via Attorney Lyn Beggs to Allegation Letter	021-027
7	January 5, 2021 Dr. Borromeo's Response to Allegation Letter	028
8	Black and White Photos of Vida Spa, LLC taken by Kim Friedman June 23, 2021	029-041
9	March 24, 2021 Nevada State Board of Pharmacy Cease and Desist Letter to Respondent	042-043
10	March 24, 2021 Nevada State Board of Pharmacy Cease and Desist Letter to Giselle Platfoot and Vida Spa, LLC	044-045
11	Sedation Log of Vida Spa, LLC retrieved from Vida Spa June 23, 2021	046-049
12	Daily Procedures January 1, 2019 to December 14, 2020	050-054
13	Medication Log Sheet of Vida Spa, LLC from May 20, 2021 to June 23, 2021	055-069
14	License Application Page of Maryanne Phillips	070
15	PATIENT B Medical Records	071-090
16	PATIENT C Medical Records	091-118
17	PATIENT D Medical Records	119-139
18	PATIENT E Medical Records	140-168
19	PATIENT F Medical Records	169-196

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20	PATIENT G Medical Records	197-199
21	PAITENT H Medical Records	200-226
22	PATIENT A Medical Records	227-267
23	PATIENT I Medical Records	268-300
24	PATIENT J Medical Records	301-332
25	PATIENT K Medical Records	333-363
26	PATIENT L Medical Records	364-398
27	PATIENT M Medical Records	399-434
28	PATIENT N Medical Records	435-470
29	PATIENT O Medical Records	471-499
30	PATIENT P Medical Records	500-532
31	PATIENT Q Medical Records	533-562
32	PATIENT R Medical Records	563-598
33	PATIENT S Medical Records	599-628
34	PATIENT T Medical Records	629-670
35	PATIENT U Medical Records	671-699
36	PATIENT V Medical Records	700-735
37	PATIENT W Medical Records	736-771
38	PATIENT X Medical Records	772-806
39	PATIENT Y Medical Records	807-844
40	PATIENT Z Medical Records	845-871

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41	PATIENT AA Medical Records	872-903
42	PATIENT BB Medical Records	904-932
43	PATIENT CC Medical Records	933-960
44	PATIENT DD Medical Records	961-996
45	PATIENT EE Medical Records	991A-1029
46	PATIENT FF Medical Records	1030-1059
47	PATIENT GG Medical Records	1060-1094
48	July 2, 2021 Nevada Department of Health and Human Services Cease Operation Order to Vida Spa, LLC	1095
49	July 2, 2021 Nevada Department of Health and Human Services Notice of Denial of Application to Gisselle Platfoot and Vida Spa, LLC	1096-1098
50	July 29, 2021 Clark County Department of Business Temporary Suspension of Business License	1099-1100
51	Color Photographs Taken June 23, 2021 by Kim Friedman	1101-1116
52	Color Photographs Taken October 27, 2020 by Kim Friedman	1117-1179
53	Direct Compounding Pharmacy Records	1180-1226
54	McKesson Pharmacy Records Spreadsheet	1227
54A	Email from McKesson Pharmacy to Investigator Kim Friedman	2330-2331
55	PATIENT HH Medical Records	1228-1259
56	PATIENT II Medical Records	1260-1292
57	PATIENT JJ Medical Records	1293-1323
58	PATIENT KK Medical Records	1324-1353
59	PATIENT LL Medical Records	1354-1380

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60	PATIENT MM Medical Records	1381-1411
61	PATIENT NN Medical Records	1412-1440
62	PATIENT OO Medical Records	1441-1475
63	PATIENT PP Medical Records	1476-1517
64	PATIENT QQ Medical Records	1518-1553
65	PATIENT RR Medical Records	1554-1582
66	PATIENT SS Medical Records	1583-1616
67	PATIENT TT Medical Records	1617-1646
68	PATIENT UU Medical Records June 8, 2021	1647-1657
69	PATIENT UU Medical Records May 5, 2021	1658-1683
70	PATIENT VV Medical Records	1684-1713
71	PATIENT WW Medical Records	1714-1743
72	PATIENT XX Medical Records	1744-1782
73	PATIENT YY Medical Records	1783-1807
74	PATIENT ZZ Medical Records	1808-1843
75	PATIENT AAA Medical Records	1844-1880
76	PATIENT BBB Medical Records	1881-1911
77	PATIENT CCC Medical Records	1912-1938
78	PATIENT DDD Medical Records	1939-1972
79	PATIENT EEE Medical Records	1973-2001
80	PATIENT FFF Medical Records	2002-2029

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81	PATIENT GGG Medical Records	2030-2056
82	PATIENT HHH Medical Records	2057-2084
83	PATIENT III Medical Records	2085-2114
84	PATIENT JJJ Medical Records	2115-2149
85	PATIENT KKK Medical Records	2150-2174
86	PATIENT LLL Medical Records	2175-2225
87	PATIENT MMM Medical Records	2226-2256
88	PATIENT NNN Medical Records	2257-2290
89	PATIENT OOO Medical Records	2291-2320
90	Subpoena for Records to Vida Spa, LLC and Affidavit of Service of Subpoena	2321-2329
91	Letter from Lyn Beggs, Esq. to Nevada State Board of Medical Examiners Regarding Withdrawal of Representation	2332
92	Facebook Video of Giselle Platfoot and Maryanne Phillips Promoting Liposuction Procedures	2333
93	Facebook Video of Maryanne Phillips Performing Chin Liposuction Procedure	2334
94	Facebook Video of Maryanne Phillips Assisting Clean Up of a Patient after Chin Liposuction Procedure	2335
95	Facebook Video of an Unknown Employee and Maryanne Phillips Promoting Liposuction With or Without Sedation	2336
96	Direct Compounding Subpoena for Records	2337-2341
97	McKesson Subpoena for Records	2342-2346
98	**Transcript of Hearing on Order for Summary Suspension**	**2347-2512**
99	**Hearing Officer's Order After Hearing Continuing Suspension**	**2513-2519**

The IC reserves the right to use any exhibits relied upon or identified by Respondent and reserves the right to amend and supplement this list of exhibits as required.

DATED this 28th day of June, 2022.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

DONALD K. WHITE, J.D.
Senior Deputy General Counsel
9600 Gateway Drive
Reno, NV 89521
Email: dwhite@medboard.nv.gov
Attorney for the Investigative Committee

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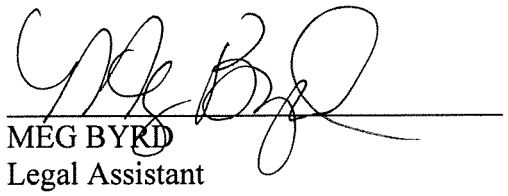
(775) 688-2559

CERTIFICATE OF SERVICE

I hereby certify that I am employed by the Nevada State Board of Medical Examiners and that on the 28th day of June, 2022, I served a file-stamped copy of the foregoing **PREHEARING CONFERENCE STATEMENT OF THE INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS**, via Federal Express 2Day Service to the following parties:

MARYANNE PHILLIPS, M.D.
c/o Leo Flangas, Esq.
Flangas Law Firm
600 South Third Street
Las Vegas, NV 89101
Attorney for Respondent

DATED this 28th day of June, 2022.



MEG BYRD
Legal Assistant
Nevada State Board of Medical Examiners

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **MARYANNE DEFOREST PHILLIPS, M.D.,** **Respondent.**	**Case No. 21-10032-1**

FILED
JUL - 6 2022
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

PROOF OF SERVICE

I, Meg Byrd, Legal Assistant for the Nevada State Board of Medical Examiners, hereby certify that on June 29, 2022, I mailed via Federal Express 2Day shipping to the following recipient(s):

Maryanne Phillips, M.D.
c/o Leo Flangas, Esq.
Flangas Law Firm
600 South Third Street
Las Vegas, NV 89101

the Investigative Committee's Prehearing Statement and Exhibits filed June 28, 2022, which package was confirmed delivered on July 1, 2022 *See* **Exhibit 1**.

DATED this 5th day of July, 2022.

MEG BYRD, Legal Assistant
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, Nevada 89521

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, Nevada 89521
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EXHIBIT 1

EXHIBIT 1

July 05, 2022

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Tracking number:	777249736717	**Ship Date:**	Jun 29, 2022
		Weight:	17.0 LB/7.72 KG

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Manage Delivery

[redacted]

TRACKING NUMBER

777249736717

DELIVERED TO

Receptionist/Front Desk

SHIP DATE ?

6/29/22

STANDARD TRANSIT ?

7/1/22 before 4:30 pm

ACTUAL DELIVERY

7/1/22 at 10:36 am

Services

SERVICE

FedEx 2Day

TERMS

Shipper

SPECIAL HANDLING SECTION

Deliver Weekday, Adult Signature Required

SIGNATURE SERVICES ?

Adult Signature Required

Package details

WEIGHT

17 lbs / 7.71 kgs

TOTAL PIECES

1

TOTAL SHIPMENT WEIGHT

17 lbs / 7.71 kgs

PACKAGING

FedEx Box

↑ Back to top

[redacted]

Ascending

TIME ZONE

Local Scan Time

Tuesday, 6/28/2022

- 12:23 PM
  Shipment information sent to FedEx

Wednesday, 6/29/2022

- 1:42 PM
  Picked up
  RENO, NV
- 2:22 PM
  Shipment arriving On-Time
  RENO, NV
- 7:41 PM
  Left FedEx origin facility
  RENO, NV

Thursday, 6/30/2022

- 4:16 AM
  Arrived at FedEx hub
  OAKLAND, CA
- 2:38 PM
  Departed FedEx hub
  OAKLAND, CA

At destination sort facility
LAS VEGAS, NV

- 3:05 AM
  Shipment arriving On-Time
  LAS VEGAS, NV

- 7:15 AM
  At local FedEx facility
  NORTH LAS VEGAS, NV

- 7:17 AM
  On FedEx vehicle for delivery
  NORTH LAS VEGAS, NV

- 10:36 AM
  Delivered
  LAS VEGAS, NV

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JUL 14 2022

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

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Attorney for Defendant

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

In the Matter of Charges and Complaint Against: **MARYANN DEFOREST PHILLIPS, M.D., Defendant**	CASE NO.: 21-10032-1

PREHEARING CONFERENCE STATEMENT OF EXHIBITS AND WITNESSES FROM DEFENDANT MARYANN DEFOREST PHILLIPS, M.D.

Defendant, Maryann Deforest Phillips, M.D., by and through her counsel of record, Leo P. Flangas, of Flangas Civil Law Firm, LTD, hereby submits the following Prehearing Conference Statement in accordance with NAC 630.465 and the Hearing Officer's Notice and Order Scheduling Pre-Hearing and Hearing, filed on March 4, 2022.

It has been agreed between the State and Defendant's counsel that the prehearing conference statement can be amended and revised prior to the next pre-arbitration conference to be set. The agreement is made based on the following reasons:

1. The State's desire to amend the complaint,
2. The fact that Defendant's counsel recently received 2,500 pages of discovery on June 30, 2022 and Defendant's counsel has not had adequate time to review the documents in order to fully determine a complete list of witnesses and exhibits.

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I. LIST OF WITNESSES

The Defendant lists the following witnesses whom they may call at the hearing and incorporates any and all witnesses listed by the Medical Board as though they were fully incorporated herein.

It has been agreed between the State and Defendant's counsel that the prehearing conference statement can be amended and revised prior to the next pre-arbitration conference.

A. Dr. Maryann Deforest Phillips, M.D.

Dr. Phillips is expected to test Ms. Platfoot is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case.

B. Giselle Platfoot

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips.

C. Johna Rusch, Health Facilities Inspector II

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. Ms. Rusch will also testify to the facts and circumstances surrounding the formal inspection of Vida Spa in 2020 and 2021.

D. Jeffrey Caine, R.N., B.S.N, M.A., Health Facilities Inspector II

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and

responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. Mr. Caine is also expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to the inspection of Vida Spa in 2020 and 2021.

E. Anna L. Solano, N.P.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

F. Hope Cruz, R.N.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

G. Charimain Poecii, N.P.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures. as well as their duties

and obligations as medical director of Vida Spa.

H. Evelyn Rodrigues, N.P.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures. as well as their duties and obligations as medical director of Vida Spa.

I. Krystin Molina, R.N.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

J. Tiana Hubbard, N.P.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

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K. Danielle Leeds, R.N.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

II. LIST OF EXHIBITS

The Defendant lists the following exhibits that they may introduce at the hearing on the charges and formal complaint against them. Additionally, Defendant reserves the right to present all exhibits listed in the Medical Board's prehearing conference statement and any supplement and/or amendment thereof.

It has been agreed between the State and Defendant's counsel that the prehearing conference statement can be amended and revised prior to the next pre-arbitration conference.

Exhibit Number	Description	Bates Range
A	Business cards for Johna Rusch and Jeffrey Caine from the State of Nevada Department of Health and Human Services	PHILLIPS 000001
B	Cannula Photos	PHILLIPS 000002 to PHILLIPS 000003
C	Vida Spa Consent for Surgery and Procedures	PHILLIPS 000004
D	Vida Spa Consent to Surgery and Procedures (Spanish)	PHILLIPS 000005
E	Fire Marshall Certificate	PHILLIPS 000006
F	Nevada Business License Details and Entity Name Change for Vida Spa	PHILLIPS 000007 to PHILLIPS 000010

G	Diagram of Layout of Vida Spa	PHILLIPS 000011 to PHILLIPS 000014

Defendant reserves the right and intends to use any exhibits relied upon or identified by the Medical Board and reserves the right to supplement this list of exhibits as required.

Dated this 13th day of July, 2022.

/s/ Leo P. Flangas
LEO P FLANGAS, ESQ.
Nevada Bar No. 5637
FLANGAS LAW FIRM, LTD.
600 S. Third Street
Las Vegas, Nevada 89101
Telephone: (702) 384-1990
Facsimile: (702) 384-1009
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of July, 2022, service of the foregoing document was made by submission via email and USPS Certified Mail to the following parties:

NEVADA STATE BOARD OF MEDICAL EXAMINERS
Attn: Don White
325 E. Warm Springs Road, Suite 225
Las Vegas, NV 89119
Email: dwhite@medboard.nv.gov

Dated this 13th day of July, 2022.

/s/ Ami Rebecca Meyers
An employee of Flangas Civil Law Firm

BEFORE THE BOARD OF MEDICAL EXAMINERS

OF THE STATE OF NEVADA

In the Matter of Charges and Complaint Against MARYANN D. PHILLIPS, M.D., Respondent.	**CASE NO.: 21-10032-1**

FILED

AUG 17 2022

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

AMENDED SCHEDULING ORDER

TO: DONALD WHITE, Deputy General Counsel and Attorney for the Investigative Committee of the Nevada State Board of Medical Examiners, 9600 GATEWAY DRIVE, RENO, NV 89521

LEO P. FLANGAS, ESQ. of FLANGAS LAW FIRM, LTD., 600 SOUTH THIRD STREET, LAS VEGAS, NV 89101

Pursuant to a recent telephonic conference with counsel, all amended pleadings and any pre-hearing motions will be filed and served such that timely responses can be filed no later than October 5, 2022 and formal hearing is to be heard November 2nd, 3rd, and 4th beginning at 9:00 a.m. each day.

It is further ordered that legal counsel for the Investigative Committee and Respondent's counsel shall keep this hearing officer advised of each issue which has been resolved by negotiation or stipulation, or any other change in the status of this case.

DATED this 16 day of August, 2022.

CHARLES B. WOODMAN, ESQ., Hearing Officer

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

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 document addressed as follows:

DONALD WHITE, Deputy General Counsel and Attorney for the Investigative Committee of the Nevada State Board of Medical Examiners, 9600 GATEWAY DRIVE, RENO, NV 89521

LEO P. FLANGAS, ESQ. of FLANGAS LAW FIRM, LTD., 600 SOUTH THIRD STREET, LAS VEGAS, NV 89101

DATED this 18th day of August , 2022.

Legal Assistant
Nevada State Board of Medical Examiners

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **MARYANNE DEFOREST PHILLIPS, M.D., Respondent.**	**Case No. 21-10032-1** FILED SEP 20 2022 NEVADA STATE BOARD OF MEDICAL EXAMINERS By:

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

SECOND AMENDED COMPLAINT

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

1. Respondent was at all times relevant to this Complaint, a medical doctor holding an active license to practice medicine in the State of Nevada (License No. 7635). Respondent was originally licensed by the Board on December 21, 1995.

2. Respondent does not have a license to prescribe controlled substances issued by the Nevada State Board of Pharmacy (NSBOP).

3. Respondent is not registered with the U.S. Drug Enforcement Agency (DEA) to prescribe controlled substances.

4. Vida Spa LLC, is a Nevada limited liability company, formed on July 22, 2016, and managed by Gisselle Platfoot, also doing business as "Vida Spa" and "Vita Medical Spa Las

/ / /

[1] The Investigative Committee of the Nevada State Board of Medical Examiners at the time the Summary Suspension in this matter was authorized, consisted of Board members Victor M. Muro, M.D., Chairman, Weldon Havins, M.D., J.D., and Ms. Maggie Arias-Petrel.

Vegas." Vida Spa is a self-described "medical spa" located 3225 S. Rainbow Blvd #107 and/or #206, Las Vegas, Nevada 89146. (Collectively, "Vida Spa").

5. Vida Spa is, and was at all times relevant to this complaint, licensed in Clark County, Nevada, under Clark County Business License No. 2003447.081-172, under the business category of "Cosmetology Establishment - Other Services." The owners listed under this license are Art Matrix, Inc. and Gisselle Platfoot.

6. Gisselle Platfoot, Manager of Vida Spa, did not, at all times relevant to this Complaint, hold a license to practice any healing art as a "provider of health care," defined in NRS 629.031, from any occupational licensing board in the State of Nevada.

7. Vida Spa is "a facility that provides health care, other than a medical facility". *See* NRS 449.442. Neither Respondent, Vida Spa, nor Gisselle Platfoot held, or currently holds, the requisite permit, pursuant to NRS 449.442, to perform general anesthesia, conscious sedation or deep sedation at Vida Spa. Additionally, neither Respondent, Vida Spa, nor Gisselle Platfoot hold a current accreditation by a nationally recognized organization approved by the Nevada State Board of Health (BOH) to perform general anesthesia, conscious sedation or deep sedation at Vida Spa.

8. On March 24, 2021, the NSBOP issued two (2) separate Citations and Orders to Cease and Desist, to Respondent, Vida Spa and Gisselle Platfoot, respectively, whereby the NSBOP separately determined that Respondent, Vida Spa and Gisselle Platfoot were possessing administering, prescribing and/or dispensing controlled substances and/or dangerous drugs for Nevada patients from Vida Spa, in violation of state and federal law.

9. The NSBOP's Citation to Respondent states that Respondent is possessing, administering, prescribing and/or dispensing controlled substances and dangerous drugs for Nevada patients from her practice in violation of federal and state law.

10. Specifically, this citation notes that her controlled substance registration was suspended, and that she is prohibited from possessing and/or administering controlled substances.

11. The NSBOP determined in this citation that Respondent has violated, attempted to violate, assisted or abetted in the violation of or conspired to violate, without limitation,

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NRS 453.226, NRS 453.316, NRS 453.321(1)(a), NRS 453.331(1)(c),(d),(f) & (i), NRS 453.381(1), NRS 453.401(1)(a), NRS 639.100(1), NRS 639.23505, NRS 639.281, NRS 639.2813, NRS 639.310, 21 U.S.C. § 822(a)(2), 21 U.S.C. § 823(f), 21 U.S.C. § 841(a), 21 U.S.C. § 842(a), 21 U.S.C. § 846 and 21 CFR §§ 1306.03–1306.05.

12. The Citation ordered Respondent to immediately cease and desist possessing, administering, prescribing and/or dispensing controlled substances for Nevada patients from her practice, and assessed an administrative fine of five thousand dollars ($5,000.00).

13. In addition to the violations of various state and federal laws pertaining to the possessing, dispensing, and/or administering controlled substances and/or dangerous drugs that are the subject of the NSBOP citations, between the dates of (on or about) April 13, 2021, to (on or about) June 23, 2021, Respondent performed invasive surgical procedures, such as liposuction and fat grafting, at Vida Spa.

14. As stated above, Vida Spa is not an accredited surgical facility, nor does it have a permit and has never obtained a permit from the BOH to offer services of general anesthesia, conscious sedation or deep sedation to patients, pursuant to NRS 449.442(1).

15. On or about April 13, 2021 through, approximately, June 23, 2021, Respondent administered Propofol for the purposes of general anesthesia, conscious sedation or deep sedation for the aforementioned invasive surgical procedures, at least seventy-three (73) times to at least seventy-two (72) individual patients, all in violation of NRS 630.373, which provides in pertinent part, that, in the State of Nevada, a physician shall not administer or supervise directly the administration of general anesthesia, conscious sedation or deep sedation to patients unless the general anesthesia, conscious sedation or deep sedation is administered:

a. In an office of a physician or osteopathic physician which holds a permit pursuant to NRS 449.435 to 449.448, inclusive;

b. In a facility which holds a permit pursuant to NRS 449.435 to 449.448, inclusive; and

c. In a medical facility as that term is defined in NRS 449.0151.

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16. Neither Vida Spa nor its proprietors hold any required permits issued by the BOH, and Vida Spa is not a medical facility as defined by NRS 449.0151.

17. Respondent, in an effort to conceal her illegal conduct, violated NRS 630.3062(1)(a) by falsifying her health care records for at least sixty-two (62) patients of the seventy-two (72) treated by failing to note that she had administered Propofol, in an attempt to conceal the fact that Propofol was being administered for the purpose of general anesthesia, conscious sedation or deep sedation at an unpermitted and unaccredited facility, in violation of NRS 630.373.

18. Respondent omitted information from the health care records for at least sixty-one (61) patients causing these records to be untimely, inaccurate, illegible, or incomplete in violation of NRS 630.3062(1)(a).

19. Respondent violated the standards of practice pursuant to NRS 630.306(1)(b)(2) and NAC 630.230(1)(a), by falsifying her patients' records of health care, which is grounds for disciplinary action in each of the sixty-two (62) instances.

20. Respondent further violated NRS 630.306(1)(p), which provides that engaging in any act that is considered unsafe or unprofessional conduct, in accordance with regulations adopted by the Board, constitutes grounds for initiating disciplinary action, when she falsified medical records for the purpose of concealing the use of Propofol for general anesthesia, conscious sedation or deep sedation at Vida Spa, an unpermitted and unaccredited facility in violation of NRS 630.373(1), which is unsafe and unprofessional conduct, in each of the sixty-two (62) instances.

COUNTS 1-72

PATIENTS A - TTT

NRS 630.373 – Administering General Anesthesia, Conscious Sedation, or Deep Sedation at an Unaccredited Location

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

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22. NRS 630.373 provides in pertinent part that:

> [a] physician shall not administer or supervise directly the administration of general anesthesia, conscious sedation or deep sedation to patients unless the general anesthesia, conscious sedation or deep sedation is administered: (a) In an office of a physician or osteopathic physician which holds a permit pursuant to NRS 449.435 to 449.448, inclusive; (b) In a facility which holds a permit pursuant to NRS 449.435 to 449.448, inclusive, and (c) in a medical facility as that term is defined in NRS 449.0151.

23. Respondent administered Propofol to at least seventy-two (72) patients each in violation of NRS 630.373.

24. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

COUNTS 73-133

PATIENTS A - III

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

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

26. Violation of NRS 630.3062(1)(a) is grounds for disciplinary action to fail to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

27. Respondent, in an effort to conceal her illegal conduct, violated NRS 630.3062(1)(a), when she falsified the medical records of at least sixty-one (61) patients for the purpose of concealing the use of Propofol for general anesthesia, conscious sedation or deep sedation at Vida Spa, an unpermitted and unaccredited facility.

28. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

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COUNTS 134-194

PATIENTS A - III

NRS 630.306(1)(b)(2) – Violation of Standards of Practice

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

30. NRS 630.306(1)(b)(2) provides that engaging in any conduct which the Board has determined is a violation of the standards of practice established by regulation of the Board constitutes grounds for initiating disciplinary action.

31. NAC 630.230(1)(a) provides that it is prohibited professional conduct to falsify records of health care.

32. Respondent, in an effort to conceal her illegal conduct, violated standards of practice pursuant to NRS 306.306(1)(b)(2) and NAC 630.230(1)(a), by falsifying her records of health care for at least sixty-one (61) patients, for the purpose of concealing the use of Propofol for general anesthesia, conscious sedation or deep sedation at Vida Spa, an unpermitted and unaccredited facility, which is grounds for disciplinary action or denial of licensure.

33. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

COUNTS 195-255

PATIENTS A - III

NRS 630.306(1)(p) – Engaging in Unsafe or Unprofessional Conduct

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

35. NRS 630.306(1)(p) provides that engaging in any act that is unsafe or unprofessional conduct in accordance with regulations adopted by the Board constitutes grounds for initiating disciplinary action.

36. NAC 630.230(1)(a) prohibits falsifying records of health care.

37. Respondent falsified medical records for at least sixty-one (61) patients, for the purpose of concealing the use of Propofol for general anesthesia, conscious sedation or deep

sedation at Vida Spa, an unpermitted and unaccredited facility in violation of NRS 630.373(1), which is unsafe and unprofessional conduct.

38. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

COUNT 256

NRS 630.305(1)(e) – Aiding the Unlicensed Practice of Medicine

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

40. NRS 630.305(1)(e) provides that aiding, assisting, employing or advising, directly or indirectly, any unlicensed person to engage in the practice of medicine contrary to the provisions of this chapter or the regulations of the Board constitutes grounds for initiating disciplinary action or denying licensure.

41. Respondent, who performed liposuction and administered Propofol for general anesthesia, conscious sedation or deep sedation at Vida Spa, aided the unlicensed practice of medicine when she allowed Giselle Platfoot, Manager of Vida Spa, who holds no professional license to practice medicine, to manipulate and diagnose patients who were seeking Liposuction and other medical procedures at Vida Spa.

42. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

COUNT 257

NRS 630.301(9) – Engaging in Conduct that Brings the Medical Profession into Disrepute

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

44. NRS 630.301(9) provides that it is grounds for disciplinary action for a physician to engage in conduct that brings the medical profession into disrepute.

45. Respondent falsified medical records for at least sixty-two (62) patients, for the purpose of concealing the use of Propofol for general anesthesia, conscious sedation or deep

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sedation at Vida Spa, an unpermitted and unaccredited facility in violation of NRS 630.373(1), which is unsafe and unprofessional conduct.

46. Respondent administered Propofol to at least seventy-two (72) patients all in violation of NRS 630.373.

47. These actions constitute conduct that brings the medical profession into disrepute in violation of NRS 630.301(9).

COUNT 258

NRS 630.3065(2)(a) – Violation of a Board Order

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

49. NRS 630.3065(2)(a) provides that it is grounds for disciplinary action for a physician to knowingly and/or willfully fail to comply with an order of the Board.

50. In June 2019, Respondent signed and agreed to a Settlement Agreement (SA) in Case No. 18-10032-1. This SA incorporated by reference two other matters (Case Nos. 12-10032-1 and 14-10032-1 and an Order for Modification, of which she requested.

51. The Order for Modification included clear language that put Respondent on notice that she was still restricted to only having the ability to perform anesthesia during the time of her probationary period regarding the SA in June 2019.

52. Respondent's probationary period for the June 2019 SA was not set to expire until June 2022.

53. Respondent was performing surgical liposuctions and fat transfers in or about 2021.

54. By performing surgical liposuction and fat transfers, Respondent was in violation of an order of the Board.

55. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

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COUNT 259

PATIENT TTT

NRS 630.301(4) – Malpractice

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

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

58. 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."

59. 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 she failed to provide sedation or analgesia in a properly permitted facility, perform a pre-anesthetic evaluation, use proper monitoring throughout the procedure, appropriate post-surgical recovery monitoring and care, and to discharge Patient TTT home when hemodynamically unstable, rather than sending her directly to a hospital.

60. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

COUNT 260

PATIENT TTT

NRS 630.301(4) – Malpractice

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

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

63. 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."

64. 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 she failed to provide proper intraoperative and post operative care and documentation of that care when Patient TTT lost a significant amount of blood and then experienced a syncopal event in the parking lot.

65. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

WHEREFORE, the Investigative Committee prays:

1. That the Board give Respondent notice of the charges herein against her and give her notice that she 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 20th day of September, 2022.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

DONALD K. WHITE, J.D.
Senior Deputy General Counsel
9600 Gateway Drive
Reno, NV 89521
Tel: (775) 688-2559
Email: dwhite@medboard.nv.gov
Attorney for the Investigative Committee

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

VERIFICATION

STATE OF NEVADA)
: ss.
COUNTY OF CLARK)

Victor M. Muro, 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 Second Amended 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 20th day of September, 2022.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: V M Muro MD

VICTOR M. MURO, M.D.
Chairman of the Investigative Committee

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

MEDICAL RECORDS

This exhibit contains personal medical information, records of a patient or other personal identifying information that is confidential and otherwise protected from disclosure to the public pursuant to NRS 622.310.

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **MARYANNE DEFOREST PHILLIPS, M.D.,** **Respondent.**	**Case No. 21-10032-1**

FILED
SEP 26 2022
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By: _____

PROOF OF SERVICE

I, Meg Byrd, Legal Assistant for the Nevada State Board of Medical Examiners, hereby certify that on September 20, 2022, I mailed via USPS Certified Mailing to the following recipient(s):

Maryanne Phillips, M.D.
c/o Leo Flangas, Esq.
Flangas Law Firm
600 South Third Street
Las Vegas, NV 89101

the Second Amended Complaint and Patient Designation for the Second Amended Complaint filed September 20, 2022, which package was confirmed delivered on September 22, 2022. *See* **Exhibit 1**.

DATED this 26th day of September, 2022.

MEG BYRD, Legal Assistant
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, Nevada 89521

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

EXHIBIT 1

EXHIBIT 1

UNITED STATES POSTAL SERVICE

September 26, 2022

Dear Meg Byrd:

The following is in response to your request for proof of delivery on your item with the tracking number: **9171 9690 0935 0254 7616 62**.

Item Details

Status:	Delivered, Left with Individual
Status Date / Time:	September 22, 2022, 10:10 am
Location:	LAS VEGAS, NV 89101
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail™
	Return Receipt Electronic

Recipient Signature

Signature of Recipient:

Address of Recipient: 600

Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: MARYANNE DEFOREST PHILLIPS, M.D., License No. 7635.	Case No. 21-10032-1

FILED
OCT - 5 2022
NEVADA STATE BOARD OF MEDICAL EXAMINERS
BY: [signature]

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

FIRST SUPPLEMENTAL PREHEARING CONFERENCE STATEMENT OF THE INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board) submits the following First Supplemental Prehearing Conference Statement in accordance with NAC 630.465 and the Hearing Officer's Notice and Order Scheduling Pre-Hearing and Hearing, filed on March 4, 2022.

I. LIST OF WITNESSES

The IC of the Board lists the following witnesses whom it may call at the hearing on the charges in the Complaint against Respondent filed herein:

a. Johnna LaRue, Deputy Chief of Investigations
Nevada State Board of Medical Examiners

Ms. LaRue is expected to verify documentary evidence obtained during the investigation of this case and testify regarding the investigation of this matter.

b. Maryanne Deforest Phillips, M.D.

Dr. Phillips is expected to testify regarding the facts and circumstances surrounding the formal Complaint in this case.

///

///

c. Patient A[1]

Patient A was a patient of Respondent in this case and she is expected to testify as to the facts and circumstances surrounding the formal Complaint in this matter.

d. Margaret Francis Byrd, Legal Assistant
Nevada State Board of Medical Examiners

Ms. Byrd is a Legal Assistant employed by the Nevada State Board of Medical Examiners and is expected to testify regarding facts and circumstances surrounding video evidence submitted as exhibits by the Investigative Committee.

e. Tiffany D. McCormack, M.D., F.A.C.S.

Dr. McCormack is a Board-Certified Plastic Surgeon and is licensed to practice medicine in the State of Nevada. Dr. McCormack has conducted a medical review of this case and is expected to testify regarding her medical review of this matter and the applicable standard of care.

f. Mark E. Janes, M.D.

Dr. Janes is a Board-Certified Anesthesiologist and is licensed to practice medicine in the State of Nevada. Dr. Janes has conducted a medical review of this case and is expected to testify regarding his medical review of this matter and the applicable standard of care.

g. All witnesses identified by Respondent in her prehearing conference statement and/or in any subsequent amended, revised or supplemental prehearing conference statement, or list of witnesses disclosed by Respondent of persons she may call to testify at the hearing herein.

The IC reserves the right to amend and supplement this list as required for prosecution of this case.

II. LIST OF EXHIBITS

The IC of the Board lists the following exhibits that it may introduce at the hearing on the charges and formal Complaint against the Respondent. Additionally, the IC of the Board reserves the right to rely on all exhibits listed in Respondent's prehearing conference statement and any supplement and/or amendment thereof.

[1] Patient A's true identity is not disclosed herein to protect her privacy, but is disclosed in the Patient Designation filed and served alongside the formal Complaint in this case.

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EXHIBIT NO.	DESCRIPTION	BATES RANGE (NSBME)
1	2019 Settlement Agreement Signed by Respondent	001-010
2	Nevada Secretary of State Information for Vida Spa, LLC	011-013
3	Clark County Business License Search Results for Vida Spa	014
4	March 19, 2021 Allegation Letter to Respondent with Request for Records	015-019
5	April 27, 2021 Second Request for Response	020
6	May 19, 2021 Respondent's Response via Attorney Lyn Beggs to Allegation Letter	021-027
7	January 5, 2021 Dr. Borromeo's Response to Allegation Letter	028
8	Black and White Photos of Vida Spa, LLC taken by Kim Friedman June 23, 2021	029-041
9	March 24, 2021 Nevada State Board of Pharmacy Cease and Desist Letter to Respondent	042-043
10	March 24, 2021 Nevada State Board of Pharmacy Cease and Desist Letter to Giselle Platfoot and Vida Spa, LLC	044-045
11	Sedation Log of Vida Spa, LLC retrieved from Vida Spa June 23, 2021	046-049
12	Daily Procedures January 1, 2019 to December 14, 2020	050-054
13	Medication Log Sheet of Vida Spa, LLC from May 20, 2021 to June 23, 2021	055-069
14	License Application Page of Maryanne Phillips	070
15	PATIENT B Medical Records	071-090
16	PATIENT C Medical Records	091-118
17	PATIENT D Medical Records	119-139
18	PATIENT E Medical Records	140-168
19	PATIENT F Medical Records	169-196

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20	PATIENT G Medical Records	197-199
21	PAITENT H Medical Records	200-226
22	PATIENT A Medical Records	227-267
23	PATIENT I Medical Records	268-300
24	PATIENT J Medical Records	301-332
25	PATIENT K Medical Records	333-363
26	PATIENT L Medical Records	364-398
27	PATIENT M Medical Records	399-434
28	PATIENT N Medical Records	435-470
29	PATIENT O Medical Records	471-499
30	PATIENT P Medical Records	500-532
31	PATIENT Q Medical Records	533-562
32	PATIENT R Medical Records	563-598
33	PATIENT S Medical Records	599-628
34	PATIENT T Medical Records	629-670
35	PATIENT U Medical Records	671-699
36	PATIENT V Medical Records	700-735
37	PATIENT W Medical Records	736-771
38	PATIENT X Medical Records	772-806
39	PATIENT Y Medical Records	807-844
40	PATIENT Z Medical Records	845-871

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41	PATIENT AA Medical Records	872-903
42	PATIENT BB Medical Records	904-932
43	PATIENT CC Medical Records	933-960
44	PATIENT DD Medical Records	961-996
45	PATIENT EE Medical Records	991A-1029
46	PATIENT FF Medical Records	1030-1059
47	PATIENT GG Medical Records	1060-1094
48	July 2, 2021 Nevada Department of Health and Human Services Cease Operation Order to Vida Spa, LLC	1095
49	July 2, 2021 Nevada Department of Health and Human Services Notice of Denial of Application to Gisselle Platfoot and Vida Spa, LLC	1096-1098
50	July 29, 2021 Clark County Department of Business Temporary Suspension of Business License	1099-1100
51	Color Photographs Taken June 23, 2021 by Kim Friedman	1101-1116
52	Color Photographs Taken October 27, 2020 by Kim Friedman	1117-1179
53	Direct Compounding Pharmacy Records	1180-1226
54	McKesson Pharmacy Records Spreadsheet	1227
54A	Email from McKesson Pharmacy to Investigator Kim Friedman	2330-2331
55	PATIENT HH Medical Records	1228-1259
56	PATIENT II Medical Records	1260-1292
57	PATIENT JJ Medical Records	1293-1323
58	PATIENT KK Medical Records	1324-1353
59	PATIENT LL Medical Records	1354-1380

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60	PATIENT MM Medical Records	1381-1411
61	PATIENT NN Medical Records	1412-1440
62	PATIENT OO Medical Records	1441-1475
63	PATIENT PP Medical Records	1476-1517
64	PATIENT QQ Medical Records	1518-1553
65	PATIENT RR Medical Records	1554-1582
66	PATIENT SS Medical Records	1583-1616
67	PATIENT TT Medical Records	1617-1646
68	PATIENT UU Medical Records June 8, 2021	1647-1657
69	PATIENT UU Medical Records May 5, 2021	1658-1683
70	PATIENT VV Medical Records	1684-1713
71	PATIENT WW Medical Records	1714-1743
72	PATIENT XX Medical Records	1744-1782
73	PATIENT YY Medical Records	1783-1807
74	PATIENT ZZ Medical Records	1808-1843
75	PATIENT AAA Medical Records	1844-1880
76	PATIENT BBB Medical Records	1881-1911
77	PATIENT CCC Medical Records	1912-1938
78	PATIENT DDD Medical Records	1939-1972
79	PATIENT EEE Medical Records	1973-2001
80	PATIENT FFF Medical Records	2002-2029

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81	PATIENT GGG Medical Records	2030-2056
82	PATIENT HHH Medical Records	2057-2084
83	PATIENT III Medical Records	2085-2114
84	PATIENT JJJ Medical Records	2115-2149
85	PATIENT KKK Medical Records	2150-2174
86	PATIENT LLL Medical Records	2175-2225
87	PATIENT MMM Medical Records	2226-2256
88	PATIENT NNN Medical Records	2257-2290
89	PATIENT OOO Medical Records	2291-2320
90	Subpoena for Records to Vida Spa, LLC and Affidavit of Service of Subpoena	2321-2329
91	Letter from Lyn Beggs, Esq. to Nevada State Board of Medical Examiners Regarding Withdrawal of Representation	2332
92	Facebook Video of Giselle Platfoot and Maryanne Phillips Promoting Liposuction Procedures	2333
93	Facebook Video of Maryanne Phillips Performing Chin Liposuction Procedure	2334
94	Facebook Video of Maryanne Phillips Assisting Clean Up of a Patient after Chin Liposuction Procedure	2335
95	Facebook Video of an Unknown Employee and Maryanne Phillips Promoting Liposuction With or Without Sedation	2336
96	Direct Compounding Subpoena for Records	2337-2341
97	McKesson Subpoena for Records	2342-2346
98	Transcript of Hearing on Order for Summary Suspension	2347-2512
99	Hearing Officer's Order After Hearing Continuing Suspension	2513-2519
100	**2016 Settlement Agreement and Order**	**2520-2532**

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101	**Order Modifying Previously Approved Settlement Agreement 12/08/2017**	**2533-2547**
102	**PATIENT TTT Medical Records**	**2548-2568**

The IC reserves the right to use any exhibits relied upon or identified by Respondent and reserves the right to amend and supplement this list of exhibits as required.

DATED this 5th day of October, 2022.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

DONALD K. WHITE, J.D.
Senior Deputy General Counsel
9600 Gateway Drive
Reno, NV 89521
Email: dwhite@medboard.nv.gov
Attorney for the Investigative Committee

OFFICE OF THE GENERAL COUNSEL
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9600 Gateway Drive
Reno, Nevada 89521
(775) 688-2559

CERTIFICATE OF SERVICE

I hereby certify that I am employed by the Nevada State Board of Medical Examiners and that on the 5th day of October, 2022, I served a file-stamped copy of the foregoing **FIRST SUPPLEMENTAL PREHEARING CONFERENCE STATEMENT OF THE INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS**, via USPS Certified Mail to the following parties:

MARYANNE PHILLIPS, M.D.
c/o Leo Flangas, Esq.
Flangas Law Firm
600 South Third Street
Las Vegas, NV 89101
Attorney for Respondent

CHARLES B. WOODMAN, ESQ.
Law Offices of Charles B. Woodman, Esq.
548 W. Plumb Lane, Suite B
Reno, NV 89509
Hearing Officer

Tracking No. 9171 9690 0935 0254 7618 77 (Flangas Law Firm)

Tracking No.: 9171 9690 0935 0254 7618 60 (Woodman)

DATED this 5th day of October, 2022.

MEG BYRD
Legal Assistant
Nevada State Board of Medical Examiners

EXHIBIT 100

EXHIBIT 100

LV194756

ORIGINAL

BEFORE THE BOARD OF MEDICAL EXAMINERS

OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against MARYANNE D. PHILLIPS, M.D., Respondent.	**Case Nos.: 12-10032-1 & 14-10032-1**

FILED

SEP 0 9 2016

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

SETTLEMENT AGREEMENT

The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board) and Maryanne D. Phillips, M.D. (Respondent), a licensed physician in Nevada, represented by John A. Hunt, Esq. of the law firm Morris Polich & Purdy, LLP, hereby enter into this Settlement Agreement (Agreement) based on the following:[1]

A. Background

1. Respondent is a physician licensed by the Board, pursuant to Chapter 630 of the Nevada Revised Statutes (NRS) and Chapter 630 of the Nevada Administrative Code (NAC) (collectively, the Medical Practice Act), to practice medicine in Nevada since 1995 (License No. 7635).

2. On November 5, 2012, in Case No. 12-10032-1, the IC filed a formal Complaint (Complaint – No. 12-10032-1) charging Respondent with violations of the Medical Practice Act. Specifically, Complaint - No. 12-10032-1 alleges three counts. Count I alleges a violation of

[1] All agreements and admissions made by Respondent are solely for final disposition of this matter and any subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, Respondent's agreements and admissions are not intended or made for any other use, such as in the context of another state or federal government regulatory agency proceeding, state or federal civil or criminal proceeding, any state or federal court proceeding, or any credentialing or privileges matter.

NRS 630.301(3), disciplinary action taken by another state. Count II alleges a violation of NRS 630.306(11), failure to report in writing, within 30 days, any disciplinary action taken against the licensee by another state. Count III alleges a violation of NRS 630.306(2)(a), engaging in any conduct that is intended to deceive.

3. For purposes of this Agreement, Respondent and the IC further stipulate and agree that that the IC represented it was intending to amend Complaint - No. 12-10032-1to include additional counts regarding allegations that Respondent failed to report to the Board that the Medical Board of California had taken disciplinary action against Respondent and failed to report to the Board that the Nevada State Board of Pharmacy (BOP) had taken disciplinary action against Respondent. The IC also represented that it was going to amend Complaint - No. 12-10032-1to include additional counts regarding the disciplinary action taken by The Medical Board of California against Respondent and the disciplinary action taken by the BOP against Respondent. Accordingly, this Agreement addresses, resolves, and takes into consideration any and all claims/counts the Board or IC may have brought against Respondent relative to said matters, including but not necessarily limited to, any count alleging a violation of NRS 630.301(3), disciplinary action taken by another state, any count alleging a violation of NRS 630.306(11), failure to report in writing, within 30 days, any disciplinary action taken against the licensee by another state, or any count alleging a violation of NRS 630.306(2)(a), engaging in any conduct that is intended to deceive. Accordingly, Respondent and the IC agree that any and all allegations or claims regarding Respondent allegedly failing to report to the Board that the Medical Board of California and the BOP had taken disciplinary action against Respondent are hereby waived and/or released by the IC and/or the Board. Again, for ease of reference, reference to "Complaint – No. 12-10032-1" shall also include the matters addressed in this paragraph.

4. On April 22, 2014, in Case No. - 14-10032-1, the IC filed a formal Complaint (Complaint – No. 14-10032-1) charging Respondent with violations of the Medical Practice Act. Complaint - No. 14-10032-1alleges three counts. Count I alleges one violation of NRS 630.3062(1), failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient. Count II alleges one violation of NRS 630.301(4), malpractice as defined by NAC 630.040. Count III alleges one violation of NRS 630.306(2)(b), engaging in any

conduct that the Board has determined is a violation of the standards of practice established by regulation of the Board.

5. Respondent was properly served with a copy of Complaint - No. 12-10032-1and with a copy of Complaint – No. 14-10032-1, and has reviewed both Complaints, understands both Complaints, and has had the opportunity to consult with competent counsel concerning the nature and significance of the Complaints.

6. Respondent is hereby advised of her rights regarding this administrative matter, and of her opportunity to defend against the allegations in Complaint - No. 12-10032-1and in Complaint – No. 14-10032-1. Specifically, Respondent has certain rights in this administrative matter as set out by the United States Constitution, the Nevada Constitution, the Medical Practice Act, and the Nevada Administrative Procedure Act (APA), which is contained in NRS Chapter 233B. These rights include the right to a formal hearing on the allegations in Complaint - No. 12-10032-1and in Complaint – No. 14-10032-1, the right to representation by counsel, at her own expense, in the preparation and presentation of her defense, the right to confront and cross-examine the witnesses and evidence against her, the right to written findings of fact, conclusions of law, and order reflecting the final decision of the Board, and the right to judicial review of the Board's order, if the decision is adverse to her.

7. Respondent understands that, under the Board's charge to protect the public by regulating the practice of medicine, the Board may take disciplinary action against Respondent's license, including license probation, license suspension, license revocation, and imposition of administrative fines, as well as any other reasonable requirement or limitation, if the Board concludes that Respondent violated one or more provisions of the Medical Practice Act.

8. Respondent understands and agrees that this Agreement, by and between Respondent and the IC, is not with the Board, and that the IC will present this Agreement to the Board for consideration in open session at a duly noticed and scheduled meeting. Respondent understands that the IC shall advocate for the Board's approval of this Agreement, but that the Board has the right to decide in its own discretion whether or not to approve this Agreement. Respondent further understands and agrees that if the Board approves this Agreement, then the terms and conditions enumerated below shall be binding and enforceable upon her and the Board.

B. Terms & Conditions

NOW, THEREFORE, in order to resolve the matters addressed herein (i.e., the matters with regards to Complaint - No. 12-10032-1and Complaint – No. 14-10032-1), Respondent and the IC hereby agree to the following terms and conditions:

1. **Jurisdiction**. Respondent is, and at all times relevant to Complaint - No. 12-10032-1and Complaint - No. 14-10032-1has been, a physician licensed to practice medicine in Nevada subject to the jurisdiction of the Board as set forth in the Medical Practice Act.

2. **Representation by Counsel/Knowing, Willing, and Intelligent Agreement**. Respondent understands that she may retain and consult counsel prior to entering into this Agreement at her own expense. Respondent acknowledges she is represented by counsel, John A. Hunt, Esq. of the law firm Morris Polich & Purdy, LLP, and wishes to resolve the matters addressed herein with counsel. Respondent agrees that if representation by counsel in this matter materially changes prior to entering into this Agreement and for the duration of this Agreement, that counsel for the IC will be timely notified of the material change. Respondent agrees that she knowingly, willingly, and intelligently enters into this Agreement after full consultation with and upon the advice of her counsel.

3. **Waiver of Rights**. In connection with this Agreement, and the associated terms and conditions, Respondent knowingly, willingly, and intelligently waives all rights in connection with this administrative matter. Respondent hereby knowingly, willingly, and intelligently waives all rights arising under the United States Constitution, the Nevada Constitution, the Medical Practice Act, the APA, and any other legal rights that may be available to her or that may apply to her in connection with the administrative proceedings resulting from Complaint - No. 12-10032-1and Complaint - No. 14-10032-1filed in this matter, including defense of the Complaints, adjudication of the allegations set forth in the Complaints (in addition, as more fully addressed above, this also includes any anticipated amendments to Complaint 12-10032-1), and imposition of any disciplinary actions or sanctions ordered by the Board. Respondent agrees to settle and resolve the allegations of Complaint - No. 12-10032-1and Complaint - No. 14-10032-1as set out by this Agreement without a hearing or any further proceedings, and without the right to judicial

review.

4. **Acknowledgement of Reasonable Basis to Proceed**. Respondent acknowledges that the IC believes it has a reasonable basis to allege that Respondent engaged in conduct that is grounds for discipline pursuant to the Medical Practice Act. The Board acknowledges Respondent is not admitting that the Board's claims/counts as alleged in the Complaints have merit and Respondent is agreeing to resolve this matter to avoid the costs of hearing and potential subsequent litigation. Respondent asserts if this matter were to proceed to hearing, she has evidence, witnesses, expert witness(es), and defenses to the counts/claims alleged in Complaint - No. 12-10032-1and Complaint – No. 14-10032-1, but for the purposes of resolving the matter and for no other purpose, Respondent waives the presentation of evidence, witnesses, expert witnesses, and defenses in order to effectuate this Agreement.

5. **Consent to Entry of Order**. In order to resolve Complaint - No. 12-10032-1 and Complaint - No. 14-10032-1pending against Respondent without incurring any further costs or the expense associated with a hearing, Respondent hereby agrees that the Board may issue an order finding that Respondent engaged in conduct that is grounds for discipline pursuant to the Medical Practice Act, to wit: one count of disciplinary action taken by another state, a violation of NRS 630.301(3), as outlined in Count I of Complaint No. - 12-10032-1 and one count of malpractice, a violation of NRS 630.301(4), as outlined in Count II of Complaint - No. 14-10032-1. Accordingly, the following terms and conditions are hereby agreed upon:

A. Respondent agrees to allow her license to practice medicine in the state of Nevada to be placed on probation for a period of 36 months from the date of the Board's acceptance, adoption and approval of this Agreement (probationary period). The following terms and conditions shall apply during Respondent's probationary period:

1. During the probationary period, Respondent shall not prescribe any Class II - IV medications. If Respondent obtains a medical license coupled with the authority to prescribe Class II - IV medications in another jurisdiction, the Board will not object to Respondent prescribing Class II - IV medications in the jurisdiction in which Respondent obtained a medical license coupled with the

authority to prescribe Class II – IV medications. However, if Respondent prescribes any Class II – IV medications in another jurisdiction to any patient from Nevada, the IC shall be authorized to immediately summarily suspend Respondent's license to practice medicine in Nevada.

2. During the probationary period, Respondent shall not administer drugs to patients except those that are necessary to perform her duties as an anesthesiologist. Accordingly, Respondent shall be able to administer drugs to patients to perform her duties as an anesthesiologist. The only drugs Respondent shall be able to administer to patients to perform her duties as an anesthesiologist are outlined in Exhibit "1." The IC shall monitor Respondent's administration of said drugs through reasonable random audits of her profile with the Nevada State Board of Pharmacy's Prescription Monitoring Program and/or random audits of her patient medical charts. If Respondent administers any drugs outlined in Exhibit "1" to patients, Respondent shall be able to provide documentary proof upon request from a Board investigator that said drugs were administered solely to perform her duties as an anesthesiologist.

3. During the probationary period, Respondent agrees the Board shall have unfettered access to Respondent's medical records and agrees they may be inspected randomly and without prior notice by investigators of the Board during the probationary period, to ensure that Respondent's subsequent practice and record-keeping protocols are consistent with Nevada statutes and regulations.

4. During the probationary period, Respondent will be responsible for the costs involved in the ongoing administrative oversight relative to the probationary period and shall reimburse the Board within 30 days of a written request for reimbursement of the same.

5. During the probationary period, Respondent shall not engage, in any manner, in the practice of pain management.

6. During the probationary period, Respondent shall not be employed in any manner with a pain management clinic/practice.

7. During the probationary period, Respondent shall not have any business interest/ownership in any pain management clinic/practice.

8. During the probationary period, Respondent shall not work at any location where pain management is practiced.

9. During the probationary period, Respondent shall not supervise any physician assistants.

10. During the probationary period, Respondent shall provide the Board with the physical address of each location of employment. If an address of employment changes, Respondent shall notify the Board in writing of the new physical address within five business days of the change.

11. During the probationary period, Respondent shall comply with all laws related to the practice of allopathic medicine, whether state or federal, whether statutory or regulatory, and whether contained in NRS and NAC chapters 629, 630, 453, 454, 585 and 639.

12. Respondent shall allow Board investigators to enter each location where Respondent is practicing medicine at any time during each practice location's normal operating hours, including any room or area therein, to inspect the practice and review any or all of her patient and practice records.

B. Respondent may petition the Board before the probationary period has expired to request that the terms of this Agreement be modified or that the probationary period be terminated before the 36-month probationary period referenced above expires.

C. With regards to Complaint - No. 12-10032-1, Respondent shall pay a fine of five hundred and xx/100 dollars ($500.00) for Count I within 30 days of the Board's acceptance, adoption and approval of this Agreement.

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D. With regards to Complaint – No. 14-10032-1, Respondent shall pay a fine of five hundred and xx/100 dollars ($500.00) for Count II within 30 days of the Board's acceptance, adoption and approval of this Agreement.

E. With regards to Counts II and III of Complaint - No. 12-10032-1and Counts I and III of Complaint No. - 14-0032-1, the same shall be dismissed.

F. Respondent will pay the costs and expenses incurred in the investigation and prosecution of the above-referenced matters within 30 days of the Board's acceptance, adoption and approval of this Agreement (i.e., Complaint - No. 12-10032-1 and Complaint – No. 14-10032-1), the current amounts being $4,567.42 for Complaint - No. 12-10032-1 and $4,360.36 for Complaint – No. 14-10032-1, not including any costs that may be necessary to finalize this Agreement.

G. Respondent shall be issued a public letter of reprimand.

H. Respondent shall take six hours of continuing medical education (CME) related to anesthesiology within 12 months from the date of the Board's acceptance, adoption and approval of this Agreement. The aforementioned hours of CME shall be in addition to any CME requirements that are regularly imposed upon Respondent as a condition of licensure in the state of Nevada and shall be approved by the Board prior to their completion.

I. This Agreement shall be reported to the appropriate entities and parties as required by law, including, but not limited to, the National Practitioner Data Bank.

6. **Release From Liability**. In execution of this Agreement, Respondent understands and agrees that the state of Nevada, the Board, and each of its members, staff, counsel, investigators, experts, peer reviewers, committees, panels, hearing officers, consultants, and agents are immune from civil liability for any decision or action taken in good faith in response to information acquired by the Board. NRS 630.364(2). Respondent agrees to release the state of Nevada, the Board, and each of its members, staff, counsel, investigators, experts, peer reviewers, committees, panels, hearing officers, consultants, and agents from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims and demands whatsoever, known and unknown, in law or equity, that Respondent ever had, now has, may have or claim to have, against

any or all of the persons, government agencies, or entities named in this paragraph arising out of, or by reason of, this investigation, this Agreement, or the administration of the cases referenced herein.

7. **Procedure for Adoption of Agreement**. The IC and counsel for the IC shall recommend approval and adoption of the terms and conditions of this Agreement by the Board in resolution of Complaint - No. 12-10032-1and Complaint – No. 14-10032-1. In the course of seeking Board acceptance, approval, and adoption of this Agreement, counsel for the IC may communicate directly with the Board staff and the adjudicating members of the Board.

Respondent acknowledges that such contacts and communication may be made or conducted ex parte, without notice or opportunity to be heard on her part until the public Board meeting where this Agreement is discussed, and that such contacts and communications may include, but not be limited to, matters concerning this Agreement, the Complaint, and any and all information of every nature whatsoever related to this matter. The IC and its counsel agree that Respondent may appear at the Board meeting where this Agreement is discussed and, if requested, respond to any questions that may be addressed to the IC or the IC's counsel.

8. **Effect of Acceptance of Agreement by Board**. In the event the Board accepts, approves, and adopts this Agreement, the Board shall issue a final order, making this Agreement an order of the Board.

9. **Effect of Rejection of Agreement by Board**. In the event the Board does not accept, approve, and adopt this Agreement, this Agreement shall be null, void, and of no force and effect except as to the following agreement regarding adjudications: (1) Respondent agrees that, notwithstanding rejection of this Agreement by the Board, nothing contained in this Agreement and nothing that occurs pursuant to efforts of the IC to seek the Board's acceptance of this Agreement shall disqualify any member of the adjudicating panel of the Board from considering Complaint - No. 12-10032-1and Complaint - No. 14-10032-1and from participating in disciplinary proceedings against Respondent, including adjudication of the cases; and (2) Respondent further agrees that she shall not seek to disqualify any such member absent evidence of bad faith.

10. **Binding Effect**. If approved by the Board, Respondent understands that this

Agreement is a binding and enforceable contract upon Respondent and the Board.

11. Forum Selection Clause. The parties agrees that in the event either party is required to seek enforcement of this Agreement in district court, the parties consent to such jurisdiction and agree that exclusive jurisdiction shall be either the Second Judicial District Court, state of Nevada, Washoe County.

12. Attorneys' Fees and Costs. The parties agree that in the event an action is commenced in district court to enforce any provision of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

13. Failure to Comply with Terms. Should Respondent fail to comply with any term or condition of this Agreement once the Agreement has been accepted, approved, and adopted by the Board, the IC shall be authorized to immediately suspend Respondent's license to practice medicine in Nevada pending an Order To Show Cause Hearing, which will be duly noticed. Failure to comply with the terms of this Agreement, including failure to pay any fines, costs, expenses, or fees owed to the Board, is a failure to comply with an order of the Board, which may result in additional disciplinary action being taken against Respondent. NRS 630.3065(2)(a). Further, Respondent's failure to remit payment to the Board for monies agreed to be paid as a condition of this Agreement may subject Respondent to civil collection efforts.

Dated this 8 day of MARCH, 2016.

By: _____
Robert Kilroy, Esq.
Attorney for the Investigative Committee

Dated this 8 day of MARCH, 2016.

By: _____
John A. Hunt, Esq.
Attorney for Respondent

UNDERSTOOD AND AGREED:

_____
MARYANNE D. PHILLIPS, M.D., Respondent
Dated this 8 day of MARCH, 2016.

IT IS HEREBY ORDERED that the foregoing Settlement Agreement is approved and accepted by the Nevada State Board of Medical Examiners on the 9th day of September 2016, with the final total amount of costs due of $8,927.78.

Michael J. Fischer, M.D., President
NEVADA STATE BOARD OF MEDICAL EXAMINERS

EXHIBIT

1

EXHIBIT

1

acetaminophen	heparin	nitroprusside 50 mg injection
ademosine	heparin sodium	norepinephrine
Adenosine 3 mg/ml 2 ml vial	hetastach 6% 500 ml drip	ocular lubricant
albuterol	hydralazine	ondansetron
albuterol hfa	hydralazine hcl	opthalmic lubricant
alfentanil	hydrocortisone 100mg/2mL	peinephrine PFS
alfentanyl	hydrocortisone 250mg/2mL	phenylephrine 100mcg/1mL
aminocaproic acid	hydrocortisone pf	phenylephrine 10mcg/1mL
amiodarone	hydromorphone	phenylephrine hcl
atracurium	iopamidol	physostigmine
atropine	ketamine	promethazine hcl
atropine sulfate	ketorolac	propofol 10mg/1mL
benzocaine/tetracaine topical	ketorolac tromethamine	propofol 200mg/20mL
bivalirudin	labetalol 5 mg/ml 4ml syringe	propofol/benzyl
bupivacaine 0.25% epi 1:200K	lidocaine 1% epi 1:100,000	propranolol
buplvacaine	lidocaine 1% MPF	protamine 10mg/1mL
calcium chloride	lidocaine 1% pf	protamine 50mg/5mL
calcium chloride 10%	lidocaine 2%	protamine sulfate
cefazolin	lidocaine 2% 100mg/5mL	rocuronium
cefazolin sodium	lidocaine 2% 20 mg/ml 5ml sdv	sodium bicarbonate
cefoxitin	lidocaine 2% 5 ml jelly	sodium chloride
dexamethasone 10mg/1mL	lidocaine 2% MPF	sodium chloride 10%
dexamethasone 4mg/1mL	lidocaine 2% topical	sterile water
dexamethasone na phosphate	lidocaine 5% topical	succinylcholine
dextrose	lidocaine hcl 2%	succinylcholine chloride
dextrose 50% 50 ml syringe	lta kit 4% 4 ml top soln	sufentanil
digoxin	meperidine	sufentanil citrate
diltiazem	methpredinsolone sodium succ	triamcinolone
diphenhydramine	methyiprednisole sod succ	vasopressin
diphenhydramine hcl	methylprednisolone NA succ	vecuronium
dobutamine	metoclopramide	verapamil
doxapram	metoprolol	water for injection, fliptop
edrophonium/atropine	midazolam	
ephedrine 50mg/1mL	midazolam 2 mg/2mL	
ephedrine 5mg/1mL	midazolam 5mg/5mL	
ephedrine sulfate	milrinone 20mg/100mL	
epinephrine	milrinone 20mg/20mL	
epinephrine 10 ml bristojet	milrinone lactate iv	
esmolol	morphine	
esmolol hcl	morphine 10mg/1mL	
etomidate	morphine PF 10mg/10mL	
famotidine	naloxone	
fentanyl	naloxone 0.4 mg/1 ml inj.	
flumazenil	neostigmine	
furosemide	neostigmine 10 mg/10 ml vial	
gentamycin sulfate	nitroglycerin	
glycopyrrolate	nitroglycerin 2% ud	

EXHIBIT 101

EXHIBIT 101

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of the License of	)	**Case Nos.: 12-10032-1 and 14-10032-1**
	)	
MARYANNE PHILLIPS, M.D.,	)	**FILED**
	)	
Licensee.	)	DEC 0 8 2017
	)	NEVADA STATE BOARD OF MEDICAL EXAMINERS
		By:

ORDER MODIFYING PREVIOUSLY APPROVED SETTLEMENT AGREEMENT

Maryanne Phillips, M.D. (Dr. Phillips), License No. 7635, personally appeared in Las Vegas, Nevada before the Nevada State Board of Medical Examiners (Board) at its regularly scheduled meeting on December 1, 2017, requesting termination of the probationary terms on her license to practice medicine in the state of Nevada as set forth in the Settlement Agreement, which was approved by the Board on September 9, 2016. After considering the request and speaking with Dr. Phillips, the Board enters the following order:

IT IS HEREBY ORDERED that the probationary status attached to Dr. Phillips' license to practice medicine in the state of Nevada is hereby removed, and her license is restored to active status with all remaining conditions and restrictions associated with the September 9, 2016 Settlement Agreement still in full force and effect. The terms of Paragraph 5(A) of the September 9, 2016 Settlement Agreement are incorporated herein by reference as conditions upon her license for 36 months from September 9, 2016. The Settlement Agreement is attached hereto as Exhibit A.

Dated this 7th day of December 2017.

NEVADA STATE BOARD OF MEDICAL EXAMINERS

D Prabhu Rachakonda M.D.

Rachakonda D. Prabhu, M.D., President
Nevada State Board of Medical Examiners

EXHIBIT A

EXHIBIT A

LV194756

ORIGINAL

BEFORE THE BOARD OF MEDICAL EXAMINERS

OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against MARYANNE D. PHILLIPS, M.D., Respondent.	Case Nos.: 12-10032-1 & 14-10032-1

FILED

SEP 09 2016

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

SETTLEMENT AGREEMENT

The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board) and Maryanne D. Phillips, M.D. (Respondent), a licensed physician in Nevada, represented by John A. Hunt, Esq. of the law firm Morris Polich & Purdy, LLP, hereby enter into this Settlement Agreement (Agreement) based on the following:[1]

A. Background

1. Respondent is a physician licensed by the Board, pursuant to Chapter 630 of the Nevada Revised Statutes (NRS) and Chapter 630 of the Nevada Administrative Code (NAC) (collectively, the Medical Practice Act), to practice medicine in Nevada since 1995 (License No. 7635).

2. On November 5, 2012, in Case No. 12-10032-1, the IC filed a formal Complaint (Complaint – No. 12-10032-1) charging Respondent with violations of the Medical Practice Act. Specifically, Complaint - No. 12-10032-1 alleges three counts. Count 1 alleges a violation of

[1] All agreements and admissions made by Respondent are solely for final disposition of this matter and any subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, Respondent's agreements and admissions are not intended or made for any other use, such as in the context of another state or federal government regulatory agency proceeding, state or federal civil or criminal proceeding, any state or federal court proceeding, or any credentialing or privileges matter.

NRS 630.301(3), disciplinary action taken by another state. Count II alleges a violation of NRS 630.306(11), failure to report in writing, within 30 days, any disciplinary action taken against the licensee by another state. Count III alleges a violation of NRS 630.306(2)(a), engaging in any conduct that is intended to deceive.

3. For purposes of this Agreement, Respondent and the IC further stipulate and agree that that the IC represented it was intending to amend Complaint - No. 12-10032-1to include additional counts regarding allegations that Respondent failed to report to the Board that the Medical Board of California had taken disciplinary action against Respondent and failed to report to the Board that the Nevada State Board of Pharmacy (BOP) had taken disciplinary action against Respondent. The IC also represented that it was going to amend Complaint - No. 12-10032-1to include additional counts regarding the disciplinary action taken by The Medical Board of California against Respondent and the disciplinary action taken by the BOP against Respondent. Accordingly, this Agreement addresses, resolves, and takes into consideration any and all claims/counts the Board or IC may have brought against Respondent relative to said matters, including but not necessarily limited to, any count alleging a violation of NRS 630.301(3), disciplinary action taken by another state, any count alleging a violation of NRS 630.306(11), failure to report in writing, within 30 days, any disciplinary action taken against the licensee by another state, or any count alleging a violation of NRS 630.306(2)(a), engaging in any conduct that is intended to deceive. Accordingly, Respondent and the IC agree that any and all allegations or claims regarding Respondent allegedly failing to report to the Board that the Medical Board of California and the BOP had taken disciplinary action against Respondent are hereby waived and/or released by the IC and/or the Board. Again, for ease of reference, reference to "Complaint – No. 12-10032-1" shall also include the matters addressed in this paragraph.

4. On April 22, 2014, in Case No. - 14-10032-1, the IC filed a formal Complaint (Complaint – No. 14-10032-1) charging Respondent with violations of the Medical Practice Act. Complaint - No. 14-10032-1alleges three counts. Count I alleges one violation of NRS 630.3062(1), failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient. Count II alleges one violation of NRS 630.301(4), malpractice as defined by NAC 630.040. Count III alleges one violation of NRS 630.306(2)(b), engaging in any

conduct that the Board has determined is a violation of the standards of practice established by regulation of the Board.

5. Respondent was properly served with a copy of Complaint - No. 12-10032-1and with a copy of Complaint – No. 14-10032-1, and has reviewed both Complaints, understands both Complaints, and has had the opportunity to consult with competent counsel concerning the nature and significance of the Complaints.

6. Respondent is hereby advised of her rights regarding this administrative matter, and of her opportunity to defend against the allegations in Complaint - No. 12-10032-1and in Complaint – No. 14-10032-1. Specifically, Respondent has certain rights in this administrative matter as set out by the United States Constitution, the Nevada Constitution, the Medical Practice Act, and the Nevada Administrative Procedure Act (APA), which is contained in NRS Chapter 233B. These rights include the right to a formal hearing on the allegations in Complaint - No. 12-10032-1and in Complaint – No. 14-10032-1, the right to representation by counsel, at her own expense, in the preparation and presentation of her defense, the right to confront and cross-examine the witnesses and evidence against her, the right to written findings of fact, conclusions of law, and order reflecting the final decision of the Board, and the right to judicial review of the Board's order, if the decision is adverse to her.

7. Respondent understands that, under the Board's charge to protect the public by regulating the practice of medicine, the Board may take disciplinary action against Respondent's license, including license probation, license suspension, license revocation, and imposition of administrative fines, as well as any other reasonable requirement or limitation, if the Board concludes that Respondent violated one or more provisions of the Medical Practice Act.

8. Respondent understands and agrees that this Agreement, by and between Respondent and the IC, is not with the Board, and that the IC will present this Agreement to the Board for consideration in open session at a duly noticed and scheduled meeting. Respondent understands that the IC shall advocate for the Board's approval of this Agreement, but that the Board has the right to decide in its own discretion whether or not to approve this Agreement. Respondent further understands and agrees that if the Board approves this Agreement, then the terms and conditions enumerated below shall be binding and enforceable upon her and the Board.

B. Terms & Conditions

NOW, THEREFORE, in order to resolve the matters addressed herein (i.e., the matters with regards to Complaint - No. 12-10032-1and Complaint – No. 14-10032-1), Respondent and the IC hereby agree to the following terms and conditions:

1. Jurisdiction. Respondent is, and at all times relevant to Complaint - No. 12-10032-1and Complaint - No. 14-10032-1has been, a physician licensed to practice medicine in Nevada subject to the jurisdiction of the Board as set forth in the Medical Practice Act.

2. Representation by Counsel/Knowing, Willing, and Intelligent Agreement. Respondent understands that she may retain and consult counsel prior to entering into this Agreement at her own expense. Respondent acknowledges she is represented by counsel, John A. Hunt, Esq. of the law firm Morris Polich & Purdy, LLP, and wishes to resolve the matters addressed herein with counsel. Respondent agrees that if representation by counsel in this matter materially changes prior to entering into this Agreement and for the duration of this Agreement, that counsel for the IC will be timely notified of the material change. Respondent agrees that she knowingly, willingly, and intelligently enters into this Agreement after full consultation with and upon the advice of her counsel.

3. Waiver of Rights. In connection with this Agreement, and the associated terms and conditions, Respondent knowingly, willingly, and intelligently waives all rights in connection with this administrative matter. Respondent hereby knowingly, willingly, and intelligently waives all rights arising under the United States Constitution, the Nevada Constitution, the Medical Practice Act, the APA, and any other legal rights that may be available to her or that may apply to her in connection with the administrative proceedings resulting from Complaint - No. 12-10032-1and Complaint - No. 14-10032-1filed in this matter, including defense of the Complaints, adjudication of the allegations set forth in the Complaints (in addition, as more fully addressed above, this also includes any anticipated amendments to Complaint 12-10032-1), and imposition of any disciplinary actions or sanctions ordered by the Board. Respondent agrees to settle and resolve the allegations of Complaint - No. 12-10032-1and Complaint - No. 14-10032-1as set out by this Agreement without a hearing or any further proceedings, and without the right to judicial

review.

4. **Acknowledgement of Reasonable Basis to Proceed**. Respondent acknowledges that the IC believes it has a reasonable basis to allege that Respondent engaged in conduct that is grounds for discipline pursuant to the Medical Practice Act. The Board acknowledges Respondent is not admitting that the Board's claims/counts as alleged in the Complaints have merit and Respondent is agreeing to resolve this matter to avoid the costs of hearing and potential subsequent litigation. Respondent asserts if this matter were to proceed to hearing, she has evidence, witnesses, expert witness(es), and defenses to the counts/claims alleged in Complaint - No. 12-10032-1and Complaint – No. 14-10032-1, but for the purposes of resolving the matter and for no other purpose, Respondent waives the presentation of evidence, witnesses, expert witnesses, and defenses in order to effectuate this Agreement.

5. **Consent to Entry of Order**. In order to resolve Complaint - No. 12-10032-1 and Complaint - No. 14-10032-1pending against Respondent without incurring any further costs or the expense associated with a hearing, Respondent hereby agrees that the Board may issue an order finding that Respondent engaged in conduct that is grounds for discipline pursuant to the Medical Practice Act, to wit: one count of disciplinary action taken by another state, a violation of NRS 630.301(3), as outlined in Count I of Complaint No. - 12-10032-1 and one count of malpractice, a violation of NRS 630.301(4), as outlined in Count II of Complaint - No. 14-10032-1. Accordingly, the following terms and conditions are hereby agreed upon:

A. Respondent agrees to allow her license to practice medicine in the state of Nevada to be placed on probation for a period of 36 months from the date of the Board's acceptance, adoption and approval of this Agreement (probationary period). The following terms and conditions shall apply during Respondent's probationary period:

1. During the probationary period, Respondent shall not prescribe any Class II - IV medications. If Respondent obtains a medical license coupled with the authority to prescribe Class II - IV medications in another jurisdiction, the Board will not object to Respondent prescribing Class II - IV medications in the jurisdiction in which Respondent obtained a medical license coupled with the

authority to prescribe Class II – IV medications. However, if Respondent prescribes any Class II – IV medications in another jurisdiction to any patient from Nevada, the IC shall be authorized to immediately summarily suspend Respondent's license to practice medicine in Nevada.

2. During the probationary period, Respondent shall not administer drugs to patients except those that are necessary to perform her duties as an anesthesiologist. Accordingly, Respondent shall be able to administer drugs to patients to perform her duties as an anesthesiologist. The only drugs Respondent shall be able to administer to patients to perform her duties as an anesthesiologist are outlined in Exhibit "1." The IC shall monitor Respondent's administration of said drugs through reasonable random audits of her profile with the Nevada State Board of Pharmacy's Prescription Monitoring Program and/or random audits of her patient medical charts. If Respondent administers any drugs outlined in Exhibit "1" to patients, Respondent shall be able to provide documentary proof upon request from a Board investigator that said drugs were administered solely to perform her duties as an anesthesiologist.

3. During the probationary period, Respondent agrees the Board shall have unfettered access to Respondent's medical records and agrees they may be inspected randomly and without prior notice by investigators of the Board during the probationary period, to ensure that Respondent's subsequent practice and record-keeping protocols are consistent with Nevada statutes and regulations.

4. During the probationary period, Respondent will be responsible for the costs involved in the ongoing administrative oversight relative to the probationary period and shall reimburse the Board within 30 days of a written request for reimbursement of the same.

5. During the probationary period, Respondent shall not engage, in any manner, in the practice of pain management.

6. During the probationary period, Respondent shall not be employed in any manner with a pain management clinic/practice.

7. During the probationary period, Respondent shall not have any business interest/ownership in any pain management clinic/practice.

8. During the probationary period, Respondent shall not work at any location where pain management is practiced.

9. During the probationary period, Respondent shall not supervise any physician assistants.

10. During the probationary period, Respondent shall provide the Board with the physical address of each location of employment. If an address of employment changes, Respondent shall notify the Board in writing of the new physical address within five business days of the change.

11. During the probationary period, Respondent shall comply with all laws related to the practice of allopathic medicine, whether state or federal, whether statutory or regulatory, and whether contained in NRS and NAC chapters 629, 630, 453, 454, 585 and 639.

12. Respondent shall allow Board investigators to enter each location where Respondent is practicing medicine at any time during each practice location's normal operating hours, including any room or area therein, to inspect the practice and review any or all of her patient and practice records.

B. Respondent may petition the Board before the probationary period has expired to request that the terms of this Agreement be modified or that the probationary period be terminated before the 36-month probationary period referenced above expires.

C. With regards to Complaint - No. 12-10032-1, Respondent shall pay a fine of five hundred and xx/100 dollars ($500.00) for Count I within 30 days of the Board's acceptance, adoption and approval of this Agreement.

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D. With regards to Complaint – No. 14-10032-1, Respondent shall pay a fine of five hundred and xx/100 dollars ($500.00) for Count II within 30 days of the Board's acceptance, adoption and approval of this Agreement.

E. With regards to Counts II and III of Complaint - No. 12-10032-1and Counts I and III of Complaint No. - 14-0032-1, the same shall be dismissed.

F. Respondent will pay the costs and expenses incurred in the investigation and prosecution of the above-referenced matters within 30 days of the Board's acceptance, adoption and approval of this Agreement (i.e., Complaint - No. 12-10032-1 and Complaint – No. 14-10032-1), the current amounts being $4,567.42 for Complaint - No. 12-10032-1 and $4,360.36 for Complaint – No. 14-10032-1, not including any costs that may be necessary to finalize this Agreement.

G. Respondent shall be issued a public letter of reprimand.

H. Respondent shall take six hours of continuing medical education (CME) related to anesthesiology within 12 months from the date of the Board's acceptance, adoption and approval of this Agreement. The aforementioned hours of CME shall be in addition to any CME requirements that are regularly imposed upon Respondent as a condition of licensure in the state of Nevada and shall be approved by the Board prior to their completion.

I. This Agreement shall be reported to the appropriate entities and parties as required by law, including, but not limited to, the National Practitioner Data Bank.

6. <u>Release From Liability</u>. In execution of this Agreement, Respondent understands and agrees that the state of Nevada, the Board, and each of its members, staff, counsel, investigators, experts, peer reviewers, committees, panels, hearing officers, consultants, and agents are immune from civil liability for any decision or action taken in good faith in response to information acquired by the Board. NRS 630.364(2). Respondent agrees to release the state of Nevada, the Board, and each of its members, staff, counsel, investigators, experts, peer reviewers, committees, panels, hearing officers, consultants, and agents from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims and demands whatsoever, known and unknown, in law or equity, that Respondent ever had, now has, may have or claim to have, against

any or all of the persons, government agencies, or entities named in this paragraph arising out of, or by reason of, this investigation, this Agreement, or the administration of the cases referenced herein.

7. **Procedure for Adoption of Agreement**. The IC and counsel for the IC shall recommend approval and adoption of the terms and conditions of this Agreement by the Board in resolution of Complaint - No. 12-10032-1and Complaint – No. 14-10032-1. In the course of seeking Board acceptance, approval, and adoption of this Agreement, counsel for the IC may communicate directly with the Board staff and the adjudicating members of the Board.

Respondent acknowledges that such contacts and communication may be made or conducted ex parte, without notice or opportunity to be heard on her part until the public Board meeting where this Agreement is discussed, and that such contacts and communications may include, but not be limited to, matters concerning this Agreement, the Complaint, and any and all information of every nature whatsoever related to this matter. The IC and its counsel agree that Respondent may appear at the Board meeting where this Agreement is discussed and, if requested, respond to any questions that may be addressed to the IC or the IC's counsel.

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10. **Binding Effect**. If approved by the Board, Respondent understands that this

Agreement is a binding and enforceable contract upon Respondent and the Board.

11. **Forum Selection Clause**. The parties agrees that in the event either party is required to seek enforcement of this Agreement in district court, the parties consent to such jurisdiction and agree that exclusive jurisdiction shall be either the Second Judicial District Court, state of Nevada, Washoe County.

12. **Attorneys' Fees and Costs**. The parties agree that in the event an action is commenced in district court to enforce any provision of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

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Dated this 8 day of March, 2016.

By: _____
Robert Kilroy, Esq.
Attorney for the Investigative Committee

Dated this 8 day of Mar, 2016.

By: _____
John A. Hunt, Esq.
Attorney for Respondent

UNDERSTOOD AND AGREED:

_____
MARYANNE D. PHILLIPS, M.D., Respondent
Dated this 8 day of Mar, 2016.

IT IS HEREBY ORDERED that the foregoing Settlement Agreement is approved and accepted by the Nevada State Board of Medical Examiners on the 9th day of September 2016, with the final total amount of costs due of $8,927.78.

Michael J. Eischer, M.D., President
NEVADA STATE BOARD OF MEDICAL EXAMINERS

EXHIBIT

1

EXHIBIT

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acetaminophen	heparin	nitroprusside 50 mg injection
ademosine	heparin sodium	norepinephrine
Adenosine 3 mg/ml 2 ml vial	hetastach 6% 500 ml drip	ocular lubricant
albuterol	hydralazine	ondansetron
albuterol hfa	hydralazine hcl	opthalmic lubricant
alfentanil	hydrocortisone 100mg/2mL	peinephrine PFS
alfentanyl	hydrocortisone 250mg/2mL	phenylephrine 100mcg/1mL
aminocaproic acid	hydrocortisone pf	phenylephrine 10mcg/1mL
amiodarone	hydromorphone	phenylephrine hcl
atracurium	iopamidol	physostigmine
atropine	ketamine	promethazine hcl
atropine sulfate	ketorolac	propofol 10mg/1mL
benzocaine/tetracaine topical	ketorolac tromethamine	propofol 200mg/20mL
bivalirudin	labetalol 5 mg/ml 4ml syringe	propofol/benzyl
bupivacaine 0.25% epi 1:200K	lidocaine 1% epi 1:100,000	propranolol
buplvacaine	lidocaine 1% MPF	protamine 10mg/1mL
calcium chloride	lidocaine 1% pf	protamine 50mg/5mL
calcium chloride 10%	lidocaine 2%	protamine sulfate
cefazolin	lidocaine 2% 100mg/5mL	rocuronium
cefazolin sodium	lidocaine 2% 20 mg/ml 5ml sdv	sodium bicarbonate
cefoxitin	lidocaine 2% 5 ml jelly	sodium chloride
dexamethasone 10mg/1mL	lidocaine 2% MPF	sodium chloride 10%
dexamethasone 4mg/1mL	lidocaine 2% topical	sterile water
dexamethasone na phosphate	lidocaine 5% topical	succinylcholine
dextrose	lidocaine hcl 2%	succinylcholine chloride
dextrose 50% 50 ml syringe	lta kit 4% 4 ml top soln	sufentanil
digoxin	meperidine	sufentanil citrate
diltiazem	methpredinsolone sodium succ	triamcinolone
diphenhydramine	methyiprednisole sod succ	vasopressin
diphenhydramine hcl	methylprednisolone NA succ	vecuronium
dobutamine	metoclopramide	verapamil
doxapram	metoprolol	water for injection, fliptop
edrophonium/atropine	midazolam	
ephedrine 50mg/1mL	midazolam 2 mg/2mL	
ephedrine 5mg/1mL	midazolam 5mg/5mL	
ephedrine sulfate	milrinone 20mg/100mL	
epinephrine	milrinone 20mg/20mL	
epinephrine 10 ml bristojet	milrinone lactate iv	
esmolol	morphine	
esmolol hcl	morphine 10mg/1mL	
etomidate	morphine PF 10mg/10mL	
famotidine	naloxone	
fentanyl	naloxone 0.4 mg/1 ml inj.	
flumazenil	neostigmine	
furosemide	neostigmine 10 mg/10 ml vial	
gentamycin sulfate	nitroglycerin	
glycopyrrolate	nitroglycerin 2% ud	

EXHIBIT 102

EXHIBIT 102

MEDICAL RECORDS

This exhibit contains personal medical information, records of a patient or other personal identifying information that is confidential and otherwise protected from disclosure to the public pursuant to NRS 622.310.

MEDICAL RECORDS

This exhibit contains personal medical information, records of a patient or other personal identifying information that is confidential and otherwise protected from disclosure to the public pursuant to NRS 622.310.

LEO P FLANGAS, ESQ.
Nevada Bar No. 5637
FLANGAS LAW FIRM, LTD.
600 S. Third Street
Las Vegas, Nevada 89101
Telephone: (702) 384-1990
Facsimile: (702) 384-1009
E-mail: leo@flangaslawfirm.com
Attorney for Defendant

FILED
OCT 07 2022
NEVADA STATE BOARD OF
MEDICAL EXAMINERS
By:

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

In the Matter of Charges and Complaint Against: **MARYANN DEFOREST PHILLIPS, M.D., Defendant**	CASE NO.: 21-10032-1

AMENDED PREHEARING CONFERENCE STATEMENT OF EXHIBITS AND WITNESSES

FROM DEFENDANT MARYANN DEFOREST PHILLIPS, M.D.

Defendant, Maryann Deforest Phillips, M.D., by and through her counsel of record, Leo P. Flangas, of Flangas Civil Law Firm, LTD, hereby submits the following Prehearing Conference Statement in accordance with NAC 630.465 and the Hearing Officer's Notice and Order Scheduling Pre-Hearing and Hearing, filed on March 4, 2022.

It has been agreed between the State and Defendant's counsel that the prehearing conference statement can be amended and revised prior to the next pre-arbitration conference to be set. The agreement is made based on the following reasons:

1. The State's desire to amend the complaint,
2. The fact that Defendant's counsel recently received 2,500 pages of discovery on June 30, 2022 and Defendant's counsel has not had adequate time to review the documents in order to fully determine a complete list of witnesses and exhibits.

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I. LIST OF WITNESSES

The Defendant lists the following witnesses whom they may call at the hearing and incorporates any and all witnesses listed by the Medical Board as though they were fully incorporated herein.

It has been agreed between the State and Defendant's counsel that the prehearing conference statement can be amended and revised prior to the next pre-arbitration conference.

A. Dr. Maryann Deforest Phillips, M.D.

Dr. Phillips is expected to test Ms. Platfoot is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case.

B. Giselle Platfoot

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips.

C. Johna Rusch, Health Facilities Inspector II

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. Ms. Rusch will also testify to the facts and circumstances surrounding the formal inspection of Vida Spa in 2020 and 2021.

D. Jeffrey Caine, R.N., B.S.N, M.A., Health Facilities Inspector II

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and

responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. Mr. Caine is also expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to the inspection of Vida Spa in 2020 and 2021.

E. Anna L. Solano, N.P.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

F. Hope Cruz, R.N.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

G. Charimain Poecii, N.P.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures. as well as their duties

and obligations as medical director of Vida Spa.

H. Evelyn Rodrigues, N.P.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures. as well as their duties and obligations as medical director of Vida Spa.

I. Krystin Molina, R.N.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

J. Tiana Hubbard, N.P.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

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K. Danielle Leeds, R.N.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

L. Dr. Andrew Sheep, M.D.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures. as well as their duties and obligations as medical director of Vida Spa.

M. Dr. Kushal, N.P.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures. as well as their duties and obligations as medical director of Vida Spa.

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N. Dr. Salvador Borromeo, M.D.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

O. Dr. Gabriel Serrano, M.D.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

P. The Second Amended Complaint was received by this office on September 20, 2022. As such additional witnesses may be identified and supplemented at a later date.

Q. Defendant reserves the right and intends call all witnesses identified and used by the State.

II. LIST OF EXHIBITS

The Defendant lists the following exhibits that they may introduce at the hearing on the charges and formal complaint against them. Additionally, Defendant reserves the right to present all exhibits listed in the Medical Board's prehearing conference statement and any supplement and/or amendment thereof.

It has been agreed between the State and Defendant's counsel that the prehearing conference statement can be amended and revised prior to the next pre-arbitration conference.

Exhibit Number	Description	Bates Range
A	Business cards for Johna Rusch and Jeffrey Caine from the State of Nevada Department of Health and Human Services	PHILLIPS 000001
B	Cannula Photos	PHILLIPS 000002 to PHILLIPS 000003
C	Vida Spa Consent for Surgery and Procedures	PHILLIPS 000004
D	Vida Spa Consent to Surgery and Procedures (Spanish)	PHILLIPS 000005
E	Fire Marshall Certificate	PHILLIPS 000006
F	Nevada Business License Details and Entity Name Change for Vida Spa	PHILLIPS 000007 to PHILLIPS 000010
G	Diagram of Layout of Vida Spa	PHILLIPS 000011 to PHILLIPS 000014

The Second Amended Complaint was received by this office on September 20, 2022. As such additional exhibits may be identified and supplemented at a later date.

Defendant reserves the right and intends to use any exhibits relied upon or identified by the Medical Board and reserves the right to supplement this list of exhibits as required.

Dated this 5th day of October, 2022.

/s/ Leo P. Flangas
LEO P FLANGAS, ESQ.
Nevada Bar No. 5637
FLANGAS LAW FIRM, LTD.
600 S. Third Street
Las Vegas, Nevada 89101
Telephone: (702) 384-1990
Facsimile: (702) 384-1009
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of October, 2022, service of the foregoing document was made by submission via email and USPS Certified Mail to the following parties:

NEVADA STATE BOARD OF MEDICAL EXAMINERS
Attn: Don White
325 E. Warm Springs Road, Suite 225
Las Vegas, NV 89119
Email: dwhite@medboard.nv.gov

Dated this 5th day of October, 2022.

/s/ Ami Rebecca Meyers
An employee of Flangas Civil Law Firm

LEO P. FLANGAS, ESQ.
Nevada Bar No.: 5637
FLANGAS CIVIL LAW FIRM, LTD.
633 South Fourth Street, Ste. #2
Las Vegas, Nevada 89101
Telephone: (702) 384-1990
Facsimile: (702) 384-1009
Email: leo@flangaslawfrim.com
Attorney for Respondent

FILED
OCT 10 2022
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

In the Matter of Charges and Complaint Against: MARYANNE DEFOREST PHILLIPS, M.D., Respondent.	Case No. 21-10032-1 **ANSWER TO SECOND AMENDED COMPLAINT**

COMES NOW, Respondent MARYANNE DEFOREST PHILLIPS, M.D., by and through her attorney, LEO P. FLANGAS, ESQ. of FLANGAS LAW FIRM, LTD., and hereby file their Answer to the Second Amended Complaint.

1. In Answering the opening paragraph of the Second Amended Complaint ("SAC"), Respondent denies the allegations contained therein.
2. In Answering paragraph 1, 2, 3, of the SAC, Respondent admits the allegations within.
3. In Answering paragraph 17, 18, 19, 23, 24, 27, 28, 32, 33, 37, 38, 41, 42, 45, 46, 47, 53, 55, 59, 60, 64, 65 of the SAC, Respondent denies the allegations within.
4. In Answering paragraph 4, 5, 6, 7, 14, 16, 54, of the SAC, Respondent is without sufficient knowledge to form a reasonable belief as to the truth or falsity of the allegations contained therein, and therefore deny each and every allegation contained therein.

5. In Answering paragraphs 8, 9, 11, 12, 15 (and subparts), 20, 22, 26, 30, 31, 35, 36, 40, 44, 49, 50, 51, 52, 57, 58, 62, 63, Respondent admits any verbatim recitation of documents, orders, statutes, and/or administrative code and denies in fullthe allegations contained therein.
6. In Answering paragraphs 21, 25, 29, 34, 39, 43, 48, 56, 61, Respondent hereby incorporates the responses to the above paragraphs as though fully set forth herein.
7. In Answering paragraph 10, of the SAC, Respondent admits that her Controlled Substances Registration was made inactive and retired in 2014 and denies the remainder of the allegations contained therein.
8. In Answering paragraph 13, of the SAC, Respondent admits to performing fat grafting while at Vida Spa and denies the remainder of the allegations contained therein.
9. In Answering paragraphs 1-6 of the prayer (beginning WHEREFORE), Respondent denies all allegations contained therein.

FIRST AFFIRMATIVE DEFENSE

Plaintiff has failed to state a claim against Respondent upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Respondent alleges that the violation of any State or Federal Law were the result of a third party's acts, omissions or wrongdoing, or the result of the acts omissions or wrongdoing of third parties over whom Respondent has no control.

THIRD AFFIRMATIVE DEFENSE

Any claims of Plaintiff's are barred by the doctrines or laches, estoppel, and waiver.

FOURTH AFFIRMATIVE DEFENSE

The Respondent's actions were taken in good faith, reliant upon information provided by a third party and others, and with a reasonable belief that such actions were appropriate, necessary, and legal.

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FIFTH AFFIRMATIVE DEFENSE

At all times, this answering Respondent acted with due care and diligence relating to the incident(s) alleged in Plaintiff's Complaint, and therefore, this answering Respondent breached no duty to the Plaintiff.

SIXTH AFFIRMATIVE DEFENSE

The Respondent asserts that a third party was operating a legally licensed medical facility as defined in NRS 449.0151, and asserts that the allegations alleged are wrongfully alleged and should be assigned to the third party.

SEVENTH AFFIRMATIVE DEFENSE

A third party failed to exercise ordinary care, caution or prudence to avoid the loss complained of in the claims and that failure directly and proximately contributed to, and was caused by the negligence, misconduct or fault of the third party.

EIGHTH AFFIRMATIVE DEFENSE

Respondent performed on Respondent's part, each and every duty, if any, owed by it towards patients and third parties.

NINTH AFFIRMATIVE DEFENSE

Because the Complaint is couched in conclusory and vague terms, Respondent cannot fully anticipate all possible affirmative defenses that may be applicable to this case. Therefore, Respondent reserves the right to amend the Answer to allege additional.

TENTH AFFIRMATIVE DEFENSE

Pursuant to NRCP 8, as amended, all possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of

Plaintiff's Complaint; therefore, Respondents reserve the right to amend this Answer to allege additional affirmative defenses if subsequent investigation so warrants.

PRAYER

WHEREFORE, Respondent respectfully pray as follows:

I. That Medical Board take nothing by way of their Complaint against Respondent;

1. That all causes of action in the Medical Board's Complaint to the Respondent be dismissed with prejudice;
2. That the Medical Board find that Respondent is not obligated to repay any damages, monetary or otherwise;
3. That the Medical Board find the Respondent acted in compliance with all State and Federal Laws;
4. For such other and further relief as this Court may deem reasonable and just under the circumstances.

DATED this 7th day of October, 2022.

FLANGAS CIVIL LAW FIRM, LTD.

/s/ Leo Flangas
LEO P. FLANGAS, ESQ.
Nevada Bar No.: 5637
633 South Fourth Street, Ste. #2
Las Vegas, Nevada 89101
Email: leo@flangaslawfirm.com
Attorney for Respondent

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of October, 2022, service of the foregoing document was made by submission via email and USPS Certified Mail to the following parties:

NEVADA STATE BOARD OF MEDICAL EXAMINERS
Attn: Don White
325 E. Warm Springs Road, Suite 225
Las Vegas, NV 89119
Email: dwhite@medboard.nv.gov

Dated this 7th day of October, 2022.

/s/ Ami Rebecca Meyers
An employee of Flangas Civil Law Firm

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **MARYANNE DEFOREST PHILLIPS, M.D., Respondent.**	**Case No. 21-10032-1** FILED OCT 14 2022 NEVADA STATE BOARD OF MEDICAL EXAMINERS By:

SECOND AMENDED SCHEDULING ORDER

TO: 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; and

LEO P. FLANGAS, ESQ., Attorney for the Respondent, of Flangas Law Firm, Ltd., 600 South Third Street, Las Vegas, NV 89101

Pursuant to recent email communications between the hearing officer and all counsel, the formal hearing of this matter is continued to **December 19, 20 and 21, 2022, beginning at the hour of 9:00 a.m.** each day. Counsel shall serve upon each other and upon the hearing officer all final exhibits, witness lists, and all other pre-trial documentation no later than Friday, November 18, 2022. Any pre-trial motions shall be filed and served no later than Thursday, October 27, 2022.

Counsel shall keep this hearing officer advised of each and every issue that is resolved by negotiation or stipulation, or any other pertinent change to the status of this case.

DATED this 13 day of October, 2022.

CHARLES B. WOODMAN, ESQ., Hearing Officer
548 W. Plumb Lane, Suite B
Reno, NV 89509
Tel: (775) 786-9800
Email: Hardywoodmanlaw@msn.com

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

FILED
NOV 23 2022
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

LEO P FLANGAS, ESQ.
Nevada Bar No. 5637
FLANGAS LAW FIRM, LTD.
600 S. Third Street
Las Vegas, Nevada 89101
Telephone: (702) 384-1990
Facsimile: (702) 384-1009
E-mail: leo@flangaslawfirm.com
Attorney for Defendant

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

In the Matter of Charges and Complaint Against: **MARYANN DEFOREST PHILLIPS, M.D., Defendant**	CASE NO.: 21-10032-1

SECOND AMENDED PREHEARING CONFERENCE STATEMENT OF EXHIBITS AND WITNESSES FROM DEFENDANT MARYANN DEFOREST PHILLIPS, M.D.

Defendant, Maryann Deforest Phillips, M.D., by and through her counsel of record, Leo P. Flangas, of Flangas Civil Law Firm, LTD, hereby submits the following Prehearing Conference Statement in accordance with NAC 630.465 and the Hearing Officer's Notice and Order Scheduling Pre-Hearing and Hearing, filed on March 4, 2022.

It has been agreed between the State and Defendant's counsel that the prehearing conference statement can be amended and revised prior to the next pre-arbitration conference to be set. The agreement is made based on the following reasons:

1. The State's desire to amend the complaint,
2. The fact that Defendant's counsel recently received 2,500 pages of discovery on June 30, 2022 and Defendant's counsel has not had adequate time to review the documents in order to fully determine a complete list of witnesses and exhibits.

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I. LIST OF WITNESSES

The Defendant lists the following witnesses whom they may call at the hearing and incorporates any and all witnesses listed by the Medical Board as though they were fully incorporated herein.

It has been agreed between the State and Defendant's counsel that the prehearing conference statement can be amended and revised prior to the next pre-arbitration conference.

A. Dr. Maryann Deforest Phillips, M.D.

Dr. Phillips is expected is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case.

B. Giselle Platfoot

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips.

C. Anna L. Solano, N.P.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

D. Hope Cruz, R.N.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and

responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

E. Charimain Poecii, N.P.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures. as well as their duties and obligations as medical director of Vida Spa.

F. Evelyn Rodrigues, N.P.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures. as well as their duties and obligations as medical director of Vida Spa.

G. Krystin Molina, R.N.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips.

The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

H. Tiana Hubbard, N.P.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

I. Danielle Leeds, R.N.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

J. Dr. Andrew Sheep, M.D.

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K. Dr. Kushal, N.P.

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L. Dr. Salvador Borromeo, M.D.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

M. Dr. Gabriel Serrano, M.D.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

N. Dr. Allen Miller

Dr. Miller is a Board-Certified Chiropractor and is licensed to practice in California,

Montana, and Colorado. Dr. Miller is expected to testify as to his experience with working with Dr. Phillips when she was retained as an expert by his company, Bio Nutra Ceutical Health Solutions.

O. Minou Nelson

Ms. Nelson is expected to testify to the requirements for, as well as the policy and procedures for unlicensed facilities being inspected by the Nevada Department of Health and Human Services.

P. The Second Amended Complaint was received by this office on September 20, 2022. As such additional witnesses may be identified and supplemented at a later date.

Q. Defendant reserves the right and intends call all witnesses identified and used by the State.

II. LIST OF EXHIBITS

The Defendant lists the following exhibits that they may introduce at the hearing on the charges and formal complaint against them. Additionally, Defendant reserves the right to present all exhibits listed in the Medical Board's prehearing conference statement and any supplement and/or amendment thereof.

It has been agreed between the State and Defendant's counsel that the prehearing conference statement can be amended and revised prior to the next pre-arbitration conference.

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E	Fire Marshall Certificate	PHILLIPS 000006
F	Nevada Business License Details and Entity Name Change for Vida Spa	PHILLIPS 000007 to PHILLIPS 000010
G	Diagram of Layout of Vida Spa	PHILLIPS 000011 to PHILLIPS 000014
H	**Outpatient Facility Tour Checklist**	PHILLIPS 000015 – PHILLIPS 000016
I	**Emails Regarding the Outpatient Facility Investigation of Vida Spa**	PHILLIPS 000017 – PHILLIPS 000035
J	**Emails and Documents from Gisselle Platfoot Regarding the Licensing Application of Vida Spa**	PHILLIPS 000036 – PHILLIPS 000102
K	**Vida Spa Employee Handbook and Contract for Medical Director**	PHILLIPS 000103 – PHILLIPS 000116
L	**Vida Spa Medical Director Agreement with Dr. Salvador Borromeo**	PHILLIPS 000117 – PHILLIPS 000121
M	**Vida Spa Medical Director Agreement with Charmaine Porcii**	PHILLIPS 000122 – PHILLIPS 000123
N	**Vida Spa Medical Director Agreement with Dr. Sherman Washington Jr.**	PHILLIPS 000124 – PHILLIPS 000127
O	**Vida Spa Medical Director Agreement with Kiarash Mirkia M.D.**	PHILLIPS 000128 – PHILLIPS 000135

The Second Amended Complaint was received by this office on September 20, 2022. As such additional exhibits may be identified and supplemented at a later date.

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Defendant reserves the right and intends to use any exhibits relied upon or identified by the Medical Board and reserves the right to supplement this list of exhibits as required.

Dated this 8th day of November, 2022.

/s/ Leo P. Flangas
LEO P FLANGAS, ESQ.
Nevada Bar No. 5637
FLANGAS LAW FIRM, LTD.
600 S. Third Street
Las Vegas, Nevada 89101
Telephone: (702) 384-1990
Facsimile: (702) 384-1009
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of November, 2022, service of the foregoing document was made by submission via email and USPS Certified Mail to the following parties:

NEVADA STATE BOARD OF MEDICAL EXAMINERS
Attn: Don White
325 E. Warm Springs Road, Suite 225
Las Vegas, NV 89119
Email: dwhite@medboard.nv.gov

Dated this 8th day of November, 2022.

/s/ Ami Rebecca Meyers
An employee of Flangas Civil Law Firm

Facility Name: Inspector: Date:

OPF Tour

Observation	Y	N	N/A	Comments
Malignant Hyperthermia cart* - check P/P, minimum 36 vials Dantrolene, each diluted w 60 ml sterile H2O *(Only required for general anesthesia)*				
Emergency equipment (Q105): ☐ Airway ☐ Ambu bag manual (single use mask) ☐ Cardiac defibrillator (batteries, pads, indicator light working) ☐ Cardiac monitor annual ☐ Endotracheal tubes ☐ Suction equipment; if GI procedure, need 2 suction mach., 1 for oral and 1 for GI ☐ Oxygen/02 mask ☐ Laryngoscopes ☐ Ventilator/positive pressure demand valve *(depress valve - only required for general anesthesia)* O0140 Expired or accessible to patients				
Emergency medications Crash cart(s) incl. anesthesia cart; Expiration dates O0140 Expired or accessible to patients				
Emergency call system (i.e. phone)				
Glucometer (Q103) observe glucometer use, clean glucometer between every patient; Uses single use lancing devices (NOT the penlet that comes with the kit) O0141No CLIA				
Blood/body spill kit				

Facility Name: Inspector: Date:

Observation	Y	N	N/A	Comments
O0093 Sharps containers in place & replaced before the fill line is reached				
O0100 Janitor closet (check contracts)				
O0100 OPF is safe/sanitary/properly constructed/equipped and maintained to protect health and safety of patients; space, lighting, maintenance; clean/dirty utility room				
O0090 Scrub sink/hand sink/alcohol based hand rubs				
Separate waiting room (not used for other functions on OR days)				
Separate recovery rooms (access is limited)				
O0140 Narcotics box: Double door and locked: Attached to wall or counter: Storage of keys, who has access:				
Narcotic log: O0140 Expiration dates: Check if used for conscious sedation (Versed, Fentanyl, Narcan)				
Medical record storage				
O0140 Fire Extinguisher check –				
O0098 Medical Waste Storage (contained/secure)				
O0050 Posting of OPF Permit				
O0040 Posting of Accreditation				
O0140 Is equipment new (good 1 year then need preventative maintenance); Used equipment check PM stickers annually;				

* Malignant Hyperthermia (hyperthermia episode, hypermetabolic syndrome) – An extreme medical emergency triggered by inhaled anesthetics except nitrous oxide. Develops during induction, 12 hr post op or up to 48 hrs after therapy; triggering agents include halothane, enflurane, isoflurane, desflurane, sevoflurane, ether, methoxyflurane, cyclopropane, succinylcholine

Gressia Sanchez

From: Selena Gray
Sent: Wednesday, October 21, 2020 2:31 PM
To: Gressia Sanchez
Subject: FW: Your assistance please-- outpatient facility rules

If you can manage this UNL as well, greatly appreciated.

From: Paul Shubert [redacted]
Sent: Wednesday, October 21, 2020 2:29 PM
To: Dena M. McClish <[redacted]; DPBH HCQC Complaints <HCQCComplaint@health.nv.gov>; Selena Gray <[redacted]; Minou Nelson <[redacted]
Cc: Kim A. Friedman <[redacted]; Dorothy Sims <[redacted]; Patricia Elkins <[redacted]>
Subject: RE: Your assistance please-- outpatient facility rules

Investigator McClish,
Thank you for bringing this to our attention. Based on your observations, it does appear this provider should be licensed and certified.

Selena,
Please ensure we complete an intake for this unlicensed operation of a facility as indicated below.

Minou,
Please coordinate to ensure we complete an investigation.

Thanks,

Paul Shubert, Bureau Chief
Nevada Department of Health and Human Services
Division of Public and Behavioral Health
Bureau of Health Care Quality and Compliance
4220 S. Maryland Pkwy | Las Vegas, NV 89119
[redacted]
www.dhhs.nv.gov | http://dpbh.nv.gov/
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From: Dena M. McClish <[redacted]
Sent: Wednesday, October 21, 2020 1:58 PM
To: Dorothy Sims <[redacted]; Paul Shubert <[redacted]

Cc: Kim A. Friedman [redacted]
Subject: Your assistance please-- outpatient facility rules

Good afternoon, we visited a facility yesterday that is conducting laser liposuction and definitely using IV sedation for such. They have a "medical director" agreement with a practitioner. With that being said, does this facility need to be permitted with you and accredited per NAC 449.99942 and 449.999424? We have a complaint from a patient that was hospitalized in serious condition after having this procedure done here in June 2020.

They seem to meet the definition of outpatient facility and I'm pretty sure they are not registered. Any assistance you might be able to provide would be greatly appreciated. This is a facility we've been to a few times for various problems so we'd love to see them at the very least brought into compliance.

Vida Spa LLC
3225 S Rainbow Blvd #206
Las Vegas, NV 89146

Owner: Gisselle Platfoot
Current Medical Director: NP Charmaine Porcii

Dena M McClish, Investigator

Nevada State Board of Pharmacy
1050 E Flamingo Rd Ste E-217
Las Vegas, NV, 89119

Office: 702.486.6420 ext 154
Cell: 702.494.8672
Fax: 702.486.7903
E-mail: dmcclish@pharmacy.nv.gov
Web Page: www.bop.nv.gov

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This information is provided as a courtesy on behalf of the Nevada State Board of Pharmacy. This information does not constitute legal advice and does not override the specific provisions of Nevada law as applied to a particular set of facts.

Redaction Date: 10/26/2022 12:42:20 PM

Redaction Log

Total Number of Redactions in Document: 12

Redaction Reasons by Page

Page	Reason	Description	Occurrences
1	General Privacy	Redaction of information, due to legitimate privacy concerns, pursuant Clark County School District v. Las Vegas Review Journal 134 Nev. 700, 708, 429 P.3d 313, 320 (2018) (holding that Nevada's common law protects personal privacy interests from unrestrained disclosure under the NPRA); Las Vegas Metropolitan Police Department v. Las Vegas Review-Journal 136 Nev. Adv. Op. 86, 478 P.3d 383 (2020)	11
2	General Privacy	Redaction of information, due to legitimate privacy concerns, pursuant Clark County School District v. Las Vegas Review Journal 134 Nev. 700, 708, 429 P.3d 313, 320 (2018) (holding that Nevada's common law protects personal privacy interests from unrestrained disclosure under the NPRA); Las Vegas Metropolitan Police Department v. Las Vegas Review-Journal 136 Nev. Adv. Op. 86, 478 P.3d 383 (2020)	1

Redaction Date: 10/26/2022 12:42:20 PM

Redaction Log

Redaction Reasons by Exemption

Reason	Description	Pages (Count)
General Privacy	Redaction of information, due to legitimate privacy concerns, pursuant Clark County School District v. Las Vegas Review Journal 134 Nev. 700, 708, 429 P.3d 313, 320 (2018) (holding that Nevada's common law protects personal privacy interests from unrestrained disclosure under the NPRA); Las Vegas Metropolitan Police Department v. Las Vegas Review-Journal 136 Nev. Adv. Op. 86, 478 P.3d 383 (2020)	1(11) 2(1)

From:	Gisselle Andrea Platfoot
To:	Kyle Parkson
Subject:	Fw: Vida Spa LLC application
Date:	Monday, December 14, 2020 12:43:22 PM
Attachments:	Application Summary.pdf PaymentReceipt (1).pdf

Sent from Outlook

From: Gisselle Andrea Platfoot
Sent: Monday, December 14, 2020 3:42 PM
To: [redacted] General Privacy
Subject: Vida Spa LLC application

Dear Sirs,

We have filled out the application and paid the fee for the sedation permit. Please let me know if you have any questions and if I have met all the requirements for this permit.

Thank you,

Gisselle Platfoot
[redacted] General Privacy

Sent from Outlook

DEPARTMENT OF HEALTH AND HUMAN SERVICES
NEVADA DIVISION OF PUBLIC AND BEHAVIORAL HEALTH (DPBH)

Initial Licensure Application for a Health Facility

Application Type	
Question	Response
Which application would you like to apply?	Initial Licensure Application for a Health Facility

Credential Information	
License Type	Endorsements
OUTPATIENT FACILITY	

Business Entity Information

Facility Name (DBA Name): VIDA SPA LLC

NV Business ID: NV20161430784

Registered Name with Secretary of State (Legal / Business Name): NEVADA

Ownership Type: LLC

Primary Contact Person: PLATFOOT, GISSELLE

Primary Contact Role: Administrator

Primary Contact Email: General Privacy

Primary Contact Phone: General Privacy
Ext:

Applicable License(s): 10334

Hours Of Operations

Day	Work Hours	From			To		
Sunday	Closed						
Monday	Open at Set Time	9	00	AM	6	00	PM
Tuesday	Open at Set Time	9	00	AM	6	00	PM
Wednesday	Open at Set Time	9	00	AM	6	00	PM
Thursday	Open at Set Time	9	00	AM	6	00	PM
Friday	Open at Set Time	9	00	AM	6	00	PM
Saturday	Open at Set Time	9	00	AM	6	00	PM

Mailing Address

Country: UNITED STATES

Address: 3225 S RAINBOW BLVD SUITE 206

Apt/Unit/etc:

City: LAS VEGAS

State / Province: NEVADA

County: CLARK

Zip: 89146-6216

Primary Phone#: General Privacy
Ext:

Alternate Phone#:
Ext:

Fax:

Primary Email: General Privacy

Alternate Email:

Physical Address of Facility		
Country: UNITED STATES	Address: 3225 S RAINBOW BLVD SUITE 206	Apt/Unit/etc:
City: LAS VEGAS	State / Province: NEVADA	County: CLARK
Zip: 89146-6216	Primary Phone#: 702-202-3050 Ext:	Alternate Phone#: Ext:
Fax:	Primary Email:	Alternate Email:

Ownership Information

Name	Role	% age Share	Address	Primary Email	Primary Phone
ART, MATRIX	Owner	50.00	3225 S RAINBOW BLVD SUITE 207, LAS VEGAS, NV, 89146	GAPC@LIVE.COM	[redacted]
PLATFOOT, GISSELLE	Owner	50.00	3225 S RAINBOW BLVD SUITE 207, LAS VEGAS, NV, 89146	GAPC@LIVE.COM	

[redacted]

Questions			
#	Questions	Response	Explanation
1.	Will the facility be performing laboratory testing (such as finger stick glucose, PT/INR or dips stick urine). If yes, please provide the NV State laboratory license number and CLIA number. Click here to get more information about CLIA regulations (www.cms.gov/clia) NAC 449.61142 An **obstetric center** must be equipped with those items needed to provide low-risk obstetrical care without general anesthesia and initial emergency procedures for life-threatening events to a maternal patient and newborn baby, including, but not limited to: (a) Sterile supplies for delivering and caring for a newborn baby; (b) Equipment for performing pelvic examinations; (c) Sphygmomanometers and stethoscopes, in adult and infant sizes; (d) Fetoscopes and doppler fetal monitors; **(e) Supplies for measuring glucose and protein in urine** **If you are an obstetric center, please contact our medical laboratory department at 775-684-1030 regarding licensure.**	No	
2.	We will be furnishing all of these laboratory tests on site: Chemical examination of urine by stick or tablet method or both; Hemoglobin or hematocrit; Blood sugar; Examination of stool specimens for occult blood; Pregnancy tests; Primary culturing for transmittal to a certified laboratory.	NO	We do not perform these services.

Attestation

Attestation

RENEWAL NOTICE ATTESTATION
All Applicants (except outpatient facilities or programs for the treatment of domestic violence)
I attest that I have been informed that all licenses expire at the end of each calendar year, no matter when the license was printed and issued. All facilities receive a renewal notice (as a courtesy) the beginning of October and are required to pay a renewal fee on or before November 15th. Even though the Bureau might issue my facility a license toward the end of the year, I have been informed by Bureau staff that I am still expected to pay a renewal fee by November 15 of the current calendar year. If I pay after November 15th of current year, I will incur a late fee calculated at 1.5 times the renewal fee.

Outpatient Facilities and Programs for the Treatment of Domestic Violence
Ensure you renew your permit or certificate, as applicable, on or prior to the expiration date on your permit/certificate.

All Applicants
I attest that my facility is aware of the mandatory reporting requirements of suspected cases of abuse, neglect, exploitation, isolation or abandonment of a patient in accordance with NRS 432B.220 (child abuse), NRS 200.5093 (older person abuse), NRS 200.50935 (vulnerable person abuse) and NRS 632.472. Click HERE to view NRS Chapter 200. Click HERE to view NRS Chapter 632. Click HERE to view NRS Chapter 432B.

Facilities that Administer Psychotropic Medications to Children
I attest that my facility is aware of, except as otherwise provided in NRS 432B.4689, that the facility must obtain written consent from the person legally responsible (PLR) for the psychiatric care of the child prior to administering psychotropic medication to a child in the custody of a child welfare agency.

IMMUNIZATION REPORTING REQUIREMENTS
FOR ALL FACILITIES THAT PROVIDE IMMUNIZATIONS I attest that my facility is aware of and will be in compliance with the immunization reporting requirements found in Nevada Administrative Code (NAC) 439.890 and NAC 439.893. Click HERE to review the NAC immunization reporting requirements.

All facilities that provide immunizations must take the Nevada webIZ user training in order to report immunizations in accordance with NAC 439.890 and NAC 439.893, as applicable. **Click HERE to sign up for a webIZ training**. Click HERE for more information on Nevada's webIZ

Note: If your facility does not provide immunizations you are attesting that your facility does not provide any immunizations.

I attest that I am financially stable and have the funds available to operate this health facility.

I have read the foregoing questions and answered each as indicated. The answers are true and a complete representation to the best of my knowledge. I have read, understand, and agree to comply with the rules and regulations pertaining to the specific statutory type of the entity for which this licensure/certification/permit application is herein made. I authorize release of such information as it may pertain to the purpose of this application.

I understand that by checking here I agree to accept all communications electronically, including notifications of proposed changes to regulations. If this is a hardship, I agree to submit in writing to the Division of Public and Behavioral Health a request to use an alternate means of communication.

Under penalty of perjury, I attest that Laboratory Testing information provided in this application (if applicable) is correct.
I understand that upon issuance, OPF facility licenses expire after one year of issuance. All licensed OPF facilities will receive a renewal notice 45 days prior to the expiration date.
The act of affixing and executing the following signature is made with the present intent to identify myself as the authorized person signing this document and with the present intent to authenticate my signature as such. I am declaring, under penalty of perjury, that the information I am about to submit to the Nevada Division of Public and Behavioral Health is true and correct, is not submitted for any improper purpose, and that I am authorized to submit the information. I understand it is unlawful to submit any illegal, unauthorized, fraudulent, deceitful, forged, deceptive, defamatory, illicit, or improper information, as defined by state and federal law, to the Nevada Division of Public and Behavioral Health, and agree to indemnify the Nevada Division of Public and Behavioral Health, and any other parties entitled thereto, for any damages incurred for any unlawful, unauthorized, fraudulent, deceitful, forged, deceptive, defamatory, illicit, or improper information, as defined by the federal and state law, submitted to the Nevada Division of Public and Behavioral Health by my use of this electronic filing system. I further understand that I may be subject to criminal and/or civil penalties for submitting any unlawful unauthorized, fraudulent, deceitful, forged, deceptive, defamatory, illicit, or improper information, as defined by federal and state law. I understand and agree that all information submitted is the property of the Nevada Division of Public and Behavioral Health, and may be monitored for all lawful purposes. I further understand that during such monitoring, all information, including personal information placed on this system, may be examined, copied, and used for any authorized purpose. I understand that I am responsible for any errors or omissions in the input of information and that I am also responsible for reviewing all information for completeness and correctness prior to submission. I declare under penalty of perjury that the foregoing is true and correct.

Name	Date
Gisselle Platfoot	12/14/2020

Fee Details	
Fee Description	Amount
Permitting Fee(OUTPATIENT FACILITY)	$ 3570.00
Total Fee	**$ 3570.00**

DEPARTMENT OF HEALTH AND HUMAN SERVICES
NEVADA DIVISION OF PUBLIC AND BEHAVIORAL HEALTH (DPBH)

Payment Receipt

Payment Details			
Payment Mode	Online Credit Card	Receipt #	243878
Amount	$ 3570.00	Online Transaction #	247830
Receipt Date	12/14/2020	Invoice #	INV-082192

Payment Distribution Details				
Business Unit	Name (Credential #)	Distribution Amount	Distribution Code	Comments
Health Facilities	VIDA SPA LLC (10334)	$ 3570.00	Applications - Health Facilities	

Redaction Date: 10/26/2022 12:29:17 PM

Redaction Log

Total Number of Redactions in Document: 9

Redaction Reasons by Page

Page	Reason	Description	Occurrences
1	General Privacy	Redaction of information, due to legitimate privacy concerns, pursuant Clark County School District v. Las Vegas Review Journal 134 Nev. 700, 708, 429 P.3d 313, 320 (2018) (holding that Nevada's common law protects personal privacy interests from unrestrained disclosure under the NPRA); Las Vegas Metropolitan Police Department v. Las Vegas Review-Journal 136 Nev. Adv. Op. 86, 478 P.3d 383 (2020)	2
2	General Privacy	Redaction of information, due to legitimate privacy concerns, pursuant Clark County School District v. Las Vegas Review Journal 134 Nev. 700, 708, 429 P.3d 313, 320 (2018) (holding that Nevada's common law protects personal privacy interests from unrestrained disclosure under the NPRA); Las Vegas Metropolitan Police Department v. Las Vegas Review-Journal 136 Nev. Adv. Op. 86, 478 P.3d 383 (2020)	4
3			3

Redaction Date: 10/26/2022 12:29:17 PM

Redaction Log

Redaction Reasons by Exemption

Reason	Description	Pages (Count)
		3(3)
General Privacy	Redaction of information, due to legitimate privacy concerns, pursuant Clark County School District v. Las Vegas Review Journal 134 Nev. 700, 708, 429 P.3d 313, 320 (2018) (holding that Nevada's common law protects personal privacy interests from unrestrained disclosure under the NPRA); Las Vegas Metropolitan Police Department v. Las Vegas Review-Journal 136 Nev. Adv. Op. 86, 478 P.3d 383 (2020)	1(2) 2(4)

Steve Sisolak
Governor

Richard Whitley, MS
Director

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Division of Public and Behavioral Health

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Lisa Sherych
Administrator

Ihsan Azzam, Ph.D., M.D.
Chief Medical Officer

12/16/20

General Privacy

Re: Complaint Number # 4908

Dear General Privacy

With reference to your complaint regarding a potential uncertified outpatient facility, located at 3225 S. Rainbow Blvd # 206 Las Vegas, a complaint investigation was initiated on 10/21/20 and completed on 12/16/20.

During the investigation, State Inspector interviewed individuals in the facility. Activities in the facility were evaluated to determine whether compensation was made for services rendered which would require licensure by the Division of Public and Behavioral Health.

Based on the completed investigation, it was concluded the home was not operating without a license, and the complaint was unsubstantiated.

Thank you for reporting your concerns. Please know that your voice will help improve the services of health facilities and agencies. If we can be of further assistance, please contact our office at 702-486-6515.

Sincerely,

Kyle Parkson, Health Facilities Inspector II

For: Paul Shubert, Bureau Chief

4220 S. Maryland Pkwy., Building D, Suite 810 • Las Vegas, Nevada 89119
702-486-6515 • Fax 702-486-6520 • dpbh.nv.gov

Redaction Date: 10/26/2022 12:37:29 PM

Redaction Log

Total Number of Redactions in Document: 2

Redaction Reasons by Page

Page	Reason	Description	Occurrences
1	General Privacy	Redaction of information, due to legitimate privacy concerns, pursuant Clark County School District v. Las Vegas Review Journal 134 Nev. 700, 708, 429 P.3d 313, 320 (2018) (holding that Nevada's common law protects personal privacy interests from unrestrained disclosure under the NPRA); Las Vegas Metropolitan Police Department v. Las Vegas Review-Journal 136 Nev. Adv. Op. 86, 478 P.3d 383 (2020)	2

Redaction Date: 10/26/2022 12:37:29 PM

Redaction Log

Redaction Reasons by Exemption

Reason	Description	Pages (Count)
General Privacy	Redaction of information, due to legitimate privacy concerns, pursuant Clark County School District v. Las Vegas Review Journal 134 Nev. 700, 708, 429 P.3d 313, 320 (2018) (holding that Nevada's common law protects personal privacy interests from unrestrained disclosure under the NPRA); Las Vegas Metropolitan Police Department v. Las Vegas Review-Journal 136 Nev. Adv. Op. 86, 478 P.3d 383 (2020)	1(2)

Chanel Gafford

From: Minou Nelson
Sent: Wednesday, December 16, 2020 7:26 AM
To: Kyle Parkson
Subject: RE: UNL 4908 OPF

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Kyle,
Yes, this most certainly can be closed and withdrawn based on their application and payment for licensure.

Thanks,

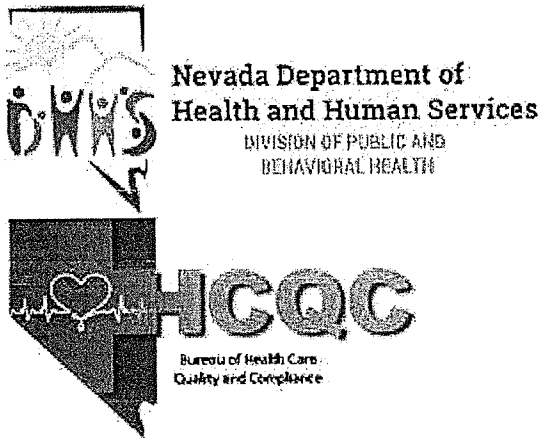
Minou Nelson
Health Facilities Inspector III
Nevada Department of Health and Human Services
Division of Public and Behavioral Health | Health Care Quality and Compliance
General Privacy

From: Kyle Parkson < General Privacy >
Sent: Monday, December 14, 2020 3:24 PM
To: Minou Nelson < General Privacy >
Subject: UNL 4908 OPF

Hello,

I'm trying to do everything between my phone and this tablet, so please let me know if there are any problems. The facility emailed me and reported applying for a license and attached the receipts. Can I just close this one out or should I keep it open?

Thanks



Kyle Parkson
Contracted Health Facilities Inspector II
Nevada Department of Health and Human Services
Division of Public and Behavioral Health | Bureau of Health Care Quality and Compliance
4220 S. Maryland Parkway, Bldg. A, Suite 100 | Las Vegas, NV 89119
General Privacy
www.dhhs.nv.gov | www.dpbh.nv.gov

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Redaction Date: 10/26/2022 12:25:28 PM

Redaction Log

Total Number of Redactions in Document: 9

Redaction Reasons by Page

Page	Reason	Description	Occurrences
1	General Privacy	Redaction of information, due to legitimate privacy concerns, pursuant Clark County School District v. Las Vegas Review Journal 134 Nev. 700, 708, 429 P.3d 313, 320 (2018) (holding that Nevada's common law protects personal privacy interests from unrestrained disclosure under the NPRA); Las Vegas Metropolitan Police Department v. Las Vegas Review-Journal 136 Nev. Adv. Op. 86, 478 P.3d 383 (2020)	4
2			1
2	General Privacy	Redaction of information, due to legitimate privacy concerns, pursuant Clark County School District v. Las Vegas Review Journal 134 Nev. 700, 708, 429 P.3d 313, 320 (2018) (holding that Nevada's common law protects personal privacy interests from unrestrained disclosure under the NPRA); Las Vegas Metropolitan Police Department v. Las Vegas Review-Journal 136 Nev. Adv. Op. 86, 478 P.3d 383 (2020)	4

Redaction Date: 10/26/2022 12:25:28 PM

Redaction Log

Redaction Reasons by Exemption

Reason	Description	Pages (Count)
		2(1)
General Privacy	Redaction of information, due to legitimate privacy concerns, pursuant Clark County School District v. Las Vegas Review Journal 134 Nev. 700, 708, 429 P.3d 313, 320 (2018) (holding that Nevada's common law protects personal privacy interests from unrestrained disclosure under the NPRA); Las Vegas Metropolitan Police Department v. Las Vegas Review-Journal 136 Nev. Adv. Op. 86, 478 P.3d 383 (2020)	1(4) 2(4)

[redacted]

From: Gisselle Andrea Platfoot <gapc@live.com>
Sent: Thursday, April 1, 2021 5:22 PM
To: Kali Galli <kgalli@health.nv.gov>
Subject: Re: Vida spa

Kali,

Here is Vida Spa's 3 year business history:
Vida Spa is a medical spa that opened on October 16th 2016. We perform laser hair removal, teeth whitening, various facials, massages, dermal filler injections, and Botox injections. We also began performing in-office liposuction three years ago. On staff we have an esthetician, massage therapists, registered nurses, medical director, an MD, receptionists, and an office manager.

I will make an account and complete the NABS training promptly. Thank you.

-Gisselle Platfoot

Sent from Outlook

From: Kali Galli <kGalli@health.nv.gov>
Sent: Monday, March 29, 2021 2:22 PM
To: Gisselle Andrea Platfoot <gapc@live.com>
Subject: RE: Vida spa

Good morning,
You should be able to create an account on that site to take the course. If you do continue to have problems getting to the NABS training you can reach out to Todd South at tsouth@health.nv.gov, he will be able to help with the site.
The 3 year business history can either be a short description of the business that includes the date of its inception or the resume and references of the owner(s).

I still need a copy of the local business license, not the State business license. This would come from either the City of Las Vegas or Clark County.

Kali Galli
Administrative Assistant III – Licensing Specialist
Nevada Department of Health and Human Services
Division of Public and Behavioral Health | Health Care Quality & Compliance
727 Fairview Dr Ste E | Carson City, NV 89701
T: (775) 684-1038 | F: (775) 684-1073 | E: kgalli@health.nv.gov
www.dhhs.nv.gov | www.dpbh.nv.gov

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From: Gisselle Andrea Platfoot <gapc@live.com>
Sent: Thursday, March 25, 2021 2:08 PM
To: Kali Galli <kGalli@health.nv.gov>
Subject: Re: Vida spa

Hi Kali,

I just sent you the lease agreement signed, business license, and the photos of the office. The NABS says guests cannot access the course, I do not have a log-in to complete this. Can you please elaborate on the 3 year business history statement, is this a document? Thank you.

-Gisselle Platfoot

Sent from Outlook

From: Kali Galli <kGalli@health.nv.gov>
Sent: Thursday, March 25, 2021 4:54 PM
To: Gisselle Andrea Platfoot <gapc@live.com>
Subject: Automatic reply: Vida spa

I am currently out of the office and will respond to voicemails and emails when I return. If you require immediate assistance, please call (775) 684-1030.

This email has been scanned for spam and viruses. Click here to report this email as spam.

[redacted]

From: Gisselle Andrea Platfoot <gapc@live.com>
Sent: Thursday, March 25, 2021 4:53 PM
To: Kali Galli <kgalli@health.nv.gov>
Subject: Re: Vida spa

Sent from Outlook

From: Kali Galli <kGalli@health.nv.gov>
Sent: Thursday, March 18, 2021 2:46 PM
To: Gisselle Andrea Platfoot <gapc@live.com>
Subject: RE: Vida spa

Good morning,
It looks like I am still missing a few things from the list. Please see below. Please let me know if you have questions.

-City or county business license
-Lease agreement This needs to be signed by tenant.
-3 year business history statement or the resume and 3 letters of reference for each owner
-Signed civil applicant waiver (attached)
-Certificate of completion for the NABS background check training found at http://dpbh.nv.gov/Reg/HealthFacilities/Training Education/
-Photo of the office

Kali Galli
Administrative Assistant III – Licensing Specialist
Nevada Department of Health and Human Services
Division of Public and Behavioral Health | Health Care Quality & Compliance
727 Fairview Dr Ste E | Carson City, NV 89701
T: (775) 684-1038 | F: (775) 684-1073 | E: kgalli@health.nv.gov
www.dhhs.nv.gov | www.dpbh.nv.gov

Request Help during COVID-19: Click here → Nevada CAN get you connected.

Helping People. It's who we are and what we do.

Find help 24/7 by dialing 2-1-1; texting 898-211; or visiting www.nevada211.org

NOTICE: This message and accompanying documents are covered by the electronic Communications Privacy Act, 18 U.S.C. §§ 2510-2521, may be covered by the Health Insurance Portability and Accountability Act (HIPAA) of 1996 and may contain confidential information or Protected Health Information intended for the specified individual(s) only. If you are not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, copying, or the taking of any action based on the contents of this information is strictly prohibited. Violations may result in administrative, civil, or criminal penalties. If you have received this communication in error, please notify sender immediately by e-mail, and delete the message.

From: Gisselle Andrea Platfoot <gapc@live.com>
Sent: Friday, March 12, 2021 4:06 PM
To: Kali Galli <kGalli@health.nv.gov>
Subject: Vida spa

Hello I am sorry for the delay in getting back to you, this is all the Documents the you requested, please let me know if i need to do anything.

Sent from Outlook

This email has been scanned for spam and viruses. Click here to report this email as spam.

[redacted]

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Sent: Thursday, March 25, 2021 4:53 PM
To: Kali Galli <kgalli@health.nv.gov>
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Kali Galli
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Sent from Outlook

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Commercial Lease Agreement

This Lease agreement is made on this 17 day of November (Month), 2017 (Year) by and between

VEGAS VALLEY CENTER, LLC (hereinafter "Landlord")

AND

VIDA SPA, LLC (hereinafter "Tenant").

In consideration for the shared promises and agreements contained herein, and for other good and valuable consideration, the parties hereby agree as follows:

1. The Landlord leases to the Tenant, and the Tenant rents from the Landlord the following stated grounds: 3225 SOUTH RAINBOW BLVD, SUITE 206, LAS VEGAS, NV 89146

2. The tenure of the Lease shall be for NOV 2017 beginning and ending NOVEMBER 1, 2025.

3. The Tenant shall pay to Landlord as rent $ 4000.00 monthly. Payable to VEGAS VALLEY CENTER, LLC, due and payable first of the month.

4. Tenant shall use and inhabit the building only as a MEDICAL SPA (Tenant Rental Status) subject at all times to the approval of the Landlord.

5. The Tenant shall not make any amendments, additions or improvements to the building without the prior written permission of the Landlord.

6. The property-owner, at his own cost, shall equip the following utilities or facilities for the benefit of the occupant:

_____

_____

7. The leaseholder shall not let or commit waste to the property.

8. The leaseholder shall meet the terms, policies, order codes and laws of all governmental establishments having authority over the property.

9. The Tenant shall not allow or engage in any activity that will affect an increase in the rate of insurance for the Building in which the property is not contained nor shall the leaseholder allow or commit any annoyance thereon.

10. The lessee shall not sublet or allocate the neither property nor consent to any other person or business to use or occupy the property without the earlier written approval of the Landlord, which permission may not be unduly withdrawn.

11. At the end of the period of this Lease, the lessee shall give in and deliver up the property in the same condition (subject to any additions, alterations or improvements, if any) as presently exists, realistic wear and tear expelled.

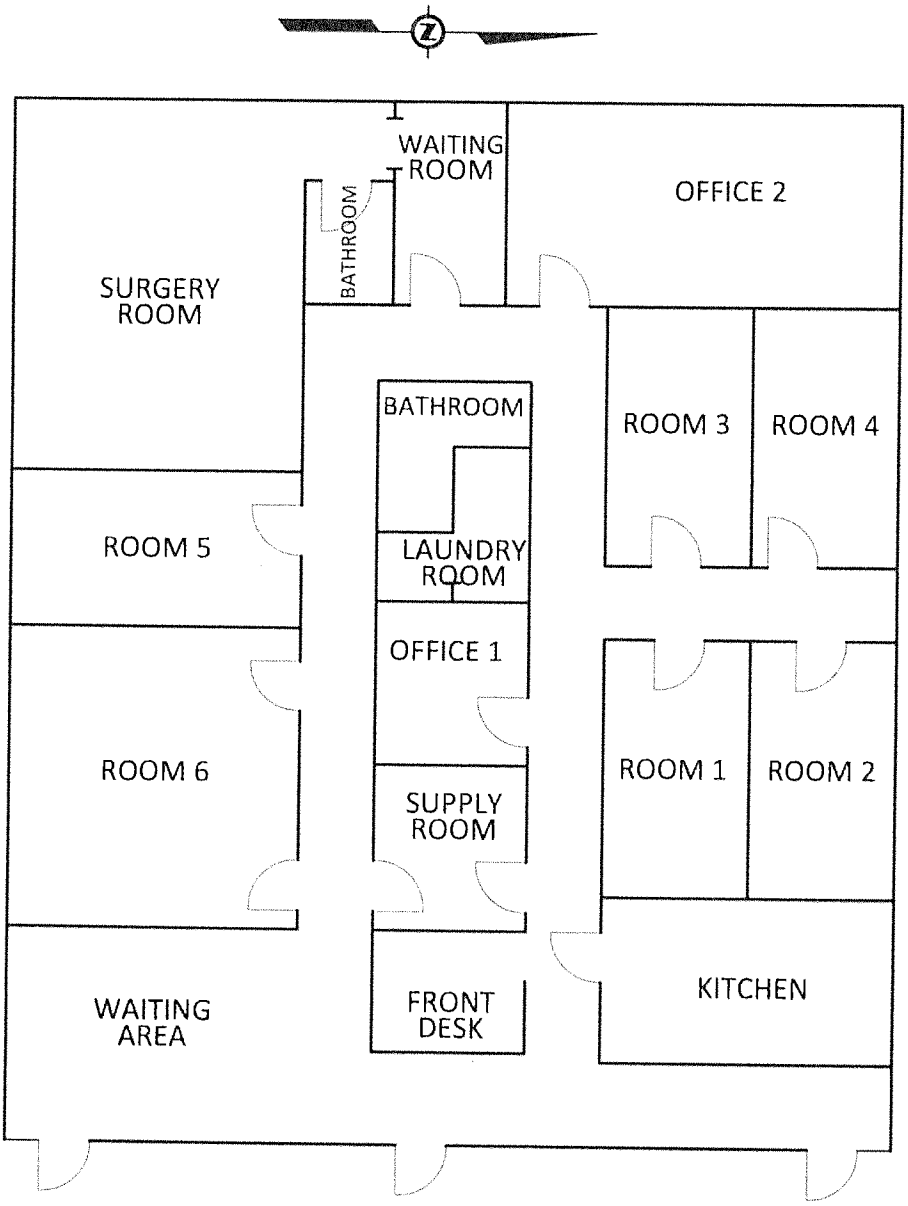
12. Upon evasion in any term or condition of this Lease, the owner shall have the right to embark on any or all other remedies allowable by Law.

13. This Lease shall be binding upon, and inure to the benefit of, the parties, their beneficiaries, successors, and assigns.

Signed on 1st **day of** NOV. **(Month)** 2017 **(Year)**

Tenant

Landlord


WAITING ROOM
OFFICE 2
BATHROOM
SURGERY ROOM
BATHROOM
ROOM 3
ROOM 4
ROOM 5
LAUNDRY ROOM
OFFICE 1
ROOM 6
ROOM 1
ROOM 2
SUPPLY ROOM
KITCHEN
WAITING AREA
FRONT DESK

IRS DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
CINCINNATI OH 45999-0023

Date of this notice: 07-21-2016

Employer Identification Number:
81-3318358

Form: SS-4

Number of this notice: CP 575 G

VIDA SPA LLC
GISSELLE PLATFOOT SOLE MBR
10655 PARK RUN DR STE 130
LAS VEGAS, NV 89144

For assistance you may call us at:
1-800-829-4933

IF YOU WRITE, ATTACH THE
STUB AT THE END OF THIS NOTICE.

WE ASSIGNED YOU AN EMPLOYER IDENTIFICATION NUMBER

Thank you for applying for an Employer Identification Number (EIN). We assigned you EIN 81-3318358. This EIN will identify you, your business accounts, tax returns, and documents, even if you have no employees. Please keep this notice in your permanent records.

When filing tax documents, payments, and related correspondence, it is very important that you use your EIN and complete name and address exactly as shown above. Any variation may cause a delay in processing, result in incorrect information in your account, or even cause you to be assigned more than one EIN. If the information is not correct as shown above, please make the correction using the attached tear off stub and return it to us.

A limited liability company (LLC) may file Form 8832, *Entity Classification Election*, and elect to be classified as an association taxable as a corporation. If the LLC is eligible to be treated as a corporation that meets certain tests and it will be electing S corporation status, it must timely file Form 2553, *Election by a Small Business Corporation*. The LLC will be treated as a corporation as of the effective date of the S corporation election and does not need to file Form 8832.

To obtain tax forms and publications, including those referenced in this notice, visit our Web site at www.irs.gov. If you do not have access to the Internet, call 1-800-829-3676 (TTY/TDD 1-800-829-4059) or visit your local IRS office.

IMPORTANT REMINDERS:

* Keep a copy of this notice in your permanent records. **This notice is issued only one time and the IRS will not be able to generate a duplicate copy for you.** You may give a copy of this document to anyone asking for proof of your EIN.

* Use this EIN and your name exactly as they appear at the top of this notice on all your federal tax forms.

* Refer to this EIN on your tax-related correspondence and documents.

If you have questions about your EIN, you can call us at the phone number or write to us at the address shown at the top of this notice. If you write, please tear off the stub at the bottom of this notice and send it along with your letter. If you do not need to write us, do not complete and return the stub.

Your name control associated with this EIN is VIDA. You will need to provide this information, along with your EIN, if you file your returns electronically.

Thank you for your cooperation.

(IRS USE ONLY) 575G 07-21-2016 VIDA C 9999999999 SS-4

Keep this part for your records. CP 575 G (Rev. 7-2007)

Return this part with any correspondence
so we may identify your account. Please
correct any errors in your name or address.

CP 575 G

9999999999

Your Telephone Number Best Time to Call
( ) -

DATE OF THIS NOTICE: 07-21-2016
EMPLOYER IDENTIFICATION NUMBER: 81-3318358
FORM: SS-4 NOBOD

INTERNAL REVENUE SERVICE
CINCINNATI OH 45999-0023

VIDA SPA LLC
GISSELLE PLATFOOT SOLE MBR
10655 PARK RUN DR STE 130
LAS VEGAS, NV 89144

SECRETARY OF STATE

STATE OF NEVADA

LIMITED LIABILITY COMPANY CHARTER

I, BARBARA K. CEGAVSKE, the Nevada Secretary of State, do hereby certify that **VIDA SPA LLC** did on July 22, 2016, file in this office the Articles of Organization for a Limited Liability Company, that said Articles of Organization are now on file and of record in the office of the Nevada Secretary of State, and further, that said Articles contain all the provisions required by the laws governing Limited Liability Companies in the State of Nevada.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of State, at my office on July 22, 2016.

Barbara K. Cegavske

BARBARA K. CEGAVSKE
Secretary of State

Certified By: Electronic Filing
Certificate Number: C20160722-0547
You may verify this certificate online at **http://www.nvsos.gov/**

BARBARA K. CEGAVSKE
Secretary of State
202 North Carson Street
Carson City, Nevada 89701-4201
(775) 684-5708
Website: www.nvsos.gov

050106

Articles of Organization
Limited-Liability Company
(PURSUANT TO NRS CHAPTER 86)

Filed in the office of	Document Number
Barbara K. Cegavske Secretary of State State of Nevada	20160324667-67
	Filing Date and Time 07/22/2016 9:18 AM
	Entity Number E0325412016-3

(This document was filed electronically.)

USE BLACK INK ONLY - DO NOT HIGHLIGHT

ABOVE SPACE IS FOR OFFICE USE ONLY

1. Name of Limited-Liability Company: (must contain approved limited-liability company wording; see instructions)

VIDA SPA LLC

Check box if a Series Limited-Liability Company: [X]

Check box if a Restricted Limited-Liability Company: [ ]

2. Registered Agent for Service of Process: (check only one box)

[X] Commercial Registered Agent: COOPER COONS, LTD (Name)

[ ] Noncommercial Registered Agent (name and address below) *OR* [ ] Office or Position with Entity (name and address below)

Name of Noncommercial Registered Agent **OR** Name of Title of Office or Other Position with Entity

Street Address | City | Nevada | Zip Code

Mailing Address (if different from street address) | City | Nevada | Zip Code

3. Dissolution Date: (optional)

Latest date upon which the company is to dissolve (if existence is not perpetual):

4. Management: (required)

Company shall be managed by: [X] Manager(s) **OR** [ ] Member(s) (check only one box)

5. Name and Address of each Manager or Managing Member: (attach additional page if more than 3)

1) GISSELLE PLATFOOT (Name)
3225 S. RAINBOW | LAS VEGAS | NV | 89146
Street Address | City | State | Zip Code

2) Name
Street Address | City | State | Zip Code

3) Name
Street Address | City | State | Zip Code

6. Name, Address and Signature of Organizer: (attach additional page if more than 1 organizer)

I declare, to the best of my knowledge under penalty of perjury, that the information contained herein is correct and acknowledge that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

JEREMY COOPER (Name) | X JEREMY COOPER (Organizer Signature)

10655 PARK RUN DR., SUITE 130 | LAS VEGAS | NV | 89144
Address | City | State | Zip Code

7. Certificate of Acceptance of Appointment of Registered Agent:

I hereby accept appointment as Registered Agent for the above named Entity.

X COOPER COONS, LTD — 7/22/2016

Authorized Signature of Registered Agent or On Behalf of Registered Agent Entity — Date

This form must be accompanied by appropriate fees.

INITIAL/ANNUAL LIST OF MANAGERS OR MANAGING MEMBERS AND STATE BUSINESS LICENSE APPLICATION OF:

VIDA SPA LLC

NAME OF LIMITED-LIABILITY COMPANY

ENTITY NUMBER

E0325412016-3

100403

FOR THE FILING PERIOD OF JUL, 2016 TO JUL, 2017

USE BLACK INK ONLY - DO NOT HIGHLIGHT

****YOU MAY FILE THIS FORM ONLINE AT www.nvsilverflume.gov****

☐ Return one file stamped copy. (If filing not accompanied by order instructions, file stamped copy will be sent to registered agent.)

Filed in the office of	Document Number
Barbara K. Cegavske Secretary of State State of Nevada	20160324669-89
	Filing Date and Time 07/22/2016 9:18 AM
	Entity Number E0325412016-3

(This document was filed electronically.)

ABOVE SPACE IS FOR OFFICE USE ONLY

IMPORTANT: Read instructions before completing and returning this form

1. Print or type names and addresses, either residence or business, for all manager or managing members. A **Manager, or if none, a Managing Member** of the LLC must sign the form. *FORM WILL BE RETURNED IF UNSIGNED.*
2. If there are additional managers or managing members, attach a list of them to this form.
3. Return completed form with the fee of $150.00. A $75.00 penalty must be added for failure to file this form by the deadline. An annual list received more than 90 days before its due date shall be deemed an amended list for the previous year.
4. State business license fee is $200.00. Effective 2/1/2010, $100.00 must be added for failure to file form by deadline.
5. Make your check payable to the Secretary of State.
6. **Ordering Copies:** If requested above, one file stamped copy will be returned at no additional charge. To receive a certified copy, enclose an additional $30.00 per certification. A **copy fee of $2.00 per page** is required for **each additional copy** generated when ordering 2 or more file stamped or certified copies. Appropriate instructions must accompany your order.
7. Return the completed form to: Secretary of State, 202 North Carson Street, Carson City, Nevada 89701-4201, (775) 684-5708.
8. Form must be in the possession of the Secretary of State on or before the last day of the month in which it is due. (Postmark date is not accepted as receipt date.) Forms received after due date will be returned for additional fees and penalties. Failure to include annual list and business license fees will result in rejection of filing.

ANNUAL LIST FILING FEE: $150.00 LATE PENALTY: $75.00 (if filing late) **BUSINESS LICENSE FEE:** $200.00 LATE PENALTY: $100.00 (if filing late)

CHECK ONLY IF APPLICABLE AND ENTER EXEMPTION CODE IN BOX BELOW

☐ Pursuant to NRS Chapter 76, this entity is exempt from the business license fee. Exemption code: ☐

NOTE: If claiming an exemption, a notarized Declaration of Eligibility form must be attached. Failure to attach the Declaration of Eligibility form will result in rejection, which could result in late fees.

NRS 76.020 Exemption Codes
001 - Governmental Entity
005 - Motion Picture Company
006 - NRS 680B.020 Insurance Co.

NAME			
GISSELLE PLATFOOT	MANAGER OR MANAGING MEMBER		
ADDRESS	CITY	STATE	ZIP CODE
3225 S. RAINBOW , USA	LAS VEGAS	NV	89146
NAME	MANAGER OR MANAGING MEMBER		
ADDRESS	CITY	STATE	ZIP CODE
NAME	MANAGER OR MANAGING MEMBER		
ADDRESS	CITY	STATE	ZIP CODE
NAME	MANAGER OR MANAGING MEMBER		
ADDRESS	CITY	STATE	ZIP CODE

None of the managers or managing members identified in the list of managers and managing members has been identified with the fraudulent intent of concealing the identity of any person or persons exercising the power or authority of a manager or managing member in furtherance of any unlawful conduct.

I declare, to the best of my knowledge under penalty of perjury, that the information contained herein is correct and acknowledge that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

X JERENY K COOPER	Title	Date
	ORGANIZER	7/22/2016 9:18:11 AM

Signature of Manager, Managing Member or Other Authorized Signature

Nevada Secretary of State List ManorMem
Revised 7-1-15

Commercial Lease Agreement

This Lease agreement is made on this 17 day of November (Month), 2017 (Year) by and between

VEGAS VALLEY CENTER, LLC (hereinafter "Landlord")

AND

VIDA SPA, LLC (hereinafter "Tenant").

In consideration for the shared promises and agreements contained herein, and for other good and valuable consideration, the parties hereby agree as follows:

1. The Landlord leases to the Tenant, and the Tenant rents from the Landlord the following stated grounds: 3225 SOUTH RAINBOW BLVD, SUITE 206, LAS VEGAS, NV 89146

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5. The Tenant shall not make any amendments, additions or improvements to the building without the prior written permission of the Landlord.

6. The property-owner, at his own cost, shall equip the following utilities or facilities for the benefit of the occupant:

_____

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11. At the end of the period of this Lease, the lessee shall give in and deliver up the property in the same condition (subject to any additions, alterations or improvements, if any) as presently exists, realistic wear and tear expelled.

12. Upon evasion in any term or condition of this Lease, the owner shall have the right to embark on any or all other remedies allowable by Law.

13. This Lease shall be binding upon, and inure to the benefit of, the parties, their beneficiaries, successors, and assigns.

Signed on 1st **day of** NOV. **(Month)** 2017 **(Year)**

Tenant	***Landlord***

SECRETARY OF STATE

STATE OF NEVADA

NEVADA STATE BUSINESS LICENSE

VIDA SPA LLC

Nevada Business Identification # NV20161430784
Expiration Date: 07/31/2021

In accordance with Title 7 of Nevada Revised Statutes, pursuant to proper application duly filed and payment of appropriate prescribed fees, the above named is hereby granted a Nevada State Business License for business activities conducted within the State of Nevada.
Valid until the expiration date listed unless suspended, revoked or cancelled in accordance with the provisions in Nevada Revised Statutes. License is not transferable and is not in lieu of any local business license, permit or registration.
License must be cancelled on or before its expiration date if business activity ceases. Failure to do so will result in late fees or penalties which, by law, cannot be waived.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of State, at my office on 07/24/2020.

Barbara K. Cegavske

BARBARA K. CEGAVSKE
Secretary of State

Certificate Number: B20200724949024
You may verify this certificate online at http://www.nvsos.gov

THE OPERATING AGREEMENT
OF
VIDA SPA, LLC

Dated July ___, 2016

(A "Container" of a Series LLC under NRS § 86.296)

Prepared by:

COOPER COONS
ATTORNEYS AT LAW

10655 Park Run Drive, Suite 130
Las Vegas, Nevada 89144
(702) 998-1500

www.coopercoons.com

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OPERATING AGREEMENT
OF
VIDA SPA, LLC

THIS OPERATING AGREEMENT ("Agreement"), dated July ____, 2016, is made by **ART MATRIX, INC., a Nevada corporation and GISSELLE PLATFOOT, as Members**, for the purpose of creating the Operating Agreement of **VIDA SPA, LLC**. The parties to this Agreement are sometimes referred to hereinafter collectively as the "Member" or "Members", as the case may be. In addition, this Agreement is entered into by **GISSELLE PLATFOOT**, as Manager of the Limited Liability Company.

Witnesseth:

NOW THEREFORE, with the full acknowledgement of the facts as recited herein and in consideration of the mutual promises of the Members hereto, one to another and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed as follows:

ARTICLE I
FORMATION AND PURPOSE OF LIMITED LIABILITY COMPANY

Section 1.1 Formation of Limited Liability Company.

(a) The parties to this Agreement hereby agree to become Member(s) and to form a Limited Liability Company pursuant to the provisions of Chapter 86 of the Nevada Revised Statutes (N.R.S.) as adopted in Nevada for the limited purposes and scope set forth hereinbelow.

(b) Except as expressly provided herein, the rights and obligations of the Members and the administration and termination of the Limited Liability Company as specified herein shall be construed in accordance with N.R.S. 86.010, *et. seq.*

Section 1.2 Name of Limited Liability Company. The Limited Liability Company's business shall be conducted solely under the name of the **VIDA SPA, LLC** (hereinafter referred to as "Company").

COONS
ATTORNEYS AT LAW

Section 1.3 Purposes and Scope of the Limited Liability Company.

(a) The purposes of the Company are to manage, buy, sell and otherwise deal with any and all investments and properties in whatever manner the Members shall choose. The Members further agree to acquire and have the Company manage all the appurtenant rights, easements and interests in any real property, and such activities as may be incidental thereto, and such other related business as may be agreed upon by the Members. The specifications of a particular type of business herein shall not be deemed a limitation on the general powers of the Company. The Company may own such assets as may be necessary to conduct the Company's business and may engage in any other activities or business incidental or related to furthering its general purpose.

(b) The intent of the Members is to increase the capital value of the Company and its assets and to reinvest, as opposed to distributing, Company profits to the maximum extent possible.

(c) Nothing herein contained shall be deemed in any way or manner to prohibit or restrict the right or freedom of any Member separately, as a separate entity apart from the Company, to conduct any business or activity whatsoever.

(d) No Member shall have any authority to act for or to assume any obligations or responsibility on behalf of any other Member or the Company.

Section 1.4 Articles of Organization. The Articles of Organization have been or shall be recorded in the office of the Secretary of State of the State of Nevada. The Manager agrees to execute, acknowledge, file record and/or publish as necessary, such amendments to said Articles of Organization as may be required by this Agreement or by law and such other documents as may be appropriate to comply with the requirements of law for the formation, preservation and/or operation of the Company.

Section 1.5 Principal Place of Business. The principal office and place of business of the Company shall be at **3225 S. Rainbow, Las Vegas, Nevada 89146,** or at such other place as the Members shall from time to time determine.

Section 1.6 Term of Company. The Company shall begin on the day the Articles of Organization are filed with the Secretary of State and shall have a perpetual existence or until terminated pursuant to the terms and conditions of this Agreement.

Section 1.7 Definitions – General. Capitalized words and phrases used in this Agreement have the following meanings:

(a) "Act" means Chapter 86 of the Nevada Revised Statutes, as amended from time to time (or any corresponding provisions of succeeding law).

(b) "Adjusted Capital Contribution" means, as of any day, a Member's Capital Contributions reduced by the sum of (i) any liabilities of such Member that are assumed by the Company (at any time) or that are secured by any property contributed to the Company (at the time of such contribution) by such Person and (ii) the aggregate distributions to such Member pursuant to Articles III and IX hereof. In the event any Member transfers all or any portion of its interest in accordance with the terms of this Agreement, its transferee shall succeed to the Adjusted Capital Contribution of the transferor to the extent it relates to the transferred interest.

(c) "Capital Account" means, with respect to any Member a capital account maintained as follows:

(i) By increasing such account with:

(A) such Member's Capital Contributions,

(B) the distributive share of Profits and any items of or in the nature of income or gain that are specially allocated pursuant to Article III to such Member, and

(C) the amount of any Company liabilities that are assumed by such Member or that are secured by any Company Property distributed to such member; and

(ii) By decreasing such account with:

(A) the amount of any cash (not including decreases in such Member's share of Company liabilities pursuant to Section 752(b) of the Code) and the Gross Asset Value of any other Company Property distributed to such Member pursuant to any provision of this Agreement,

(B) the distributive share of Losses and any items of or in the nature of expenses or losses that are allocated pursuant to Article III to such Member, and

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(C) the amount of any liabilities of such Member that are assumed by the Company or that are secured by any property contributed to the Company by such Member.

Immediately prior to liquidation of the Company, capital accounts shall be adjusted as necessary to reflect the fair market value of assets to be distributed among the Members.

For purposes of this Section 1.7(c), liabilities are considered assumed only to the extent the assuming party is thereby subjected to personal liability with respect to such obligation, the oblige is aware of the assumption and can directly enforce the assuming party's obligation, and as between the assuming party and the party from whom the liability is assumed, the assuming party is ultimately liable.

In the event any interest in the Company is transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent that such Capital Account related to the transferred interest.

(d) "Capital Contribution" means, with respect to any Member, the amount of money and the initial Gross Asset Value of any property (other than money) contributed to the Company with respect to the interest held by such Member. For purposes of this Section, money contributed to the Company does not include increases in any Member's share of Company liabilities pursuant to Section 752(a) of the Code.

(e) "Code" means the Internal Revenue Code of 1986, as amended from time to time (or any corresponding provisions of succeeding law).

(f) "Company" means the Company.

(g) "Company Property" means all real and personal property acquired by or contributed to the Company and any improvements thereto, and shall include both tangible and intangible property.

(h) "Depreciation" means, for each fiscal year or other period, an amount equal to the depreciation, amortization or other cost recovery deduction allowable with respect to an asset for such year or other period.

(i) "Gross Asset Value" means, with respect to any asset, the asset's adjusted basis for federal income tax purposes, except as follows:

(i) The initial Gross Asset Value of any asset contributed by a Member to the Company shall be the gross fair market value of such asset, as determined by the contributing Member and the Company;

(ii) The Gross Asset Value of all Company assets shall be adjusted to equal their respective gross fair market values, as determined by the Member(s), as of the following times:

(A) the acquisition of an additional interest in the Company by any new or existing Member in exchange for more than a de minimis Capital Contribution;

(B) the distribution by the Company to a Member of more than a de minimis amount of the Member's Capital Account if the Member(s) reasonably determine that such adjustment is necessary or appropriate to reflect the relative economic interests of the Member(s) in the Company.

(j) "Manager" means a person elected by the Members of the Company to manage the Company.

(k) "Member" means any person, or entity whose name is set forth in the first paragraph of this Agreement as a Member or who has been admitted as an additional or Substituted Member pursuant to the terms of this Agreement. "Members" means all such persons or entities. All references in this Agreement to a majority in interest or a specified percentage of the Members shall mean Members holding more than 50% or such specified percentage, respectively, of the interest then held by Members.

(l) "Net Cash From Operations" means the gross cash proceeds from Company operations less the portion thereof used to pay or establish reserves for all Company expenses, debt payments, capital improvements, replacements and contingencies, all as determined by the Manager. "Net Cash From Operations" shall not be reduced by depreciation, amortization, cost recovery deductions or similar allowances.

(m) "Net Cash From Sales or Refinancing" means the net cash proceeds from all sales or other dispositions (other than in the ordinary course of business) and all refinancing of Company Property less any portion thereof used to establish reserves, all as determined by the Manager. "Net Cash From Sales or Refinancing" shall include all principal and interest payments with

respect to any note or other obligation received by the Company in connection with sales and other dispositions (other than in the ordinary course of business) of Company Property.

(n) "Person" means any individual, partnership, corporation, trust or other entity.

(o) "Profits" and "Losses" mean, for each fiscal year or other period, an amount equal to the Company's taxable income or loss for such year or period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Code Section 702(a)(1) shall be included in taxable income or loss), with the following adjustment: any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses pursuant to this Section 1.7(o) shall be added to such taxable income or loss.

(p) "Regulations" means the income tax regulations promulgated under the Code; as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

(q) "Units" means the share of interest in the Company as defined in Section 2.2 hereof.

ARTICLE II

CAPITALIZATION AND FINANCING OF THE COMPANY

Section 2.1 Percentage Interest.

(a) Initial Percentage Interest. The initial percentage interests shall be as follows:

MEMBER:	PERCENTAGE INTEREST:	UNITS:
ART MATRIX, INC.	50%	500
GISSELLE PLATFOOT	50%	500

Percentage interests express the share of property shown on the attached Schedule "B", contributed by and for the Members. The interests of the Members in the capital originally contributed are the same as listed above.

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(b) Call for Additional Capital Contributions.

(i) The Managers will have the authority to require the Members to contribute additional capital when additional capital is reasonably needed to pay existing or anticipated expenses of operation and administration; debt service for any amounts borrowed by the Company; insurance and tax payments; the cost of acquiring, maintaining and selling property of the Company.

(ii) The calls for capital shall not be discriminatory, that is, all Members shall be permitted to contribute capital to the extent of each Member's percentage interest in the Company.

(c) Remedies for Default on Mandatory Capital Call. In the event any member shall default in its obligation to make a capital contribution under a Mandatory Capital Call by the date specified therein and such default shall remain unremedied for ninety (90) days (a "Mandatory Capital Call Default") then such member shall thereafter be a "Defaulting Member" and such unpaid capital contribution under the Mandatory Capital Call shall be a "Defaulted Amount" and the Managers may take the following actions:

(i) The Managers may treat the Defaulted Amount as a loan to the Defaulting Member by the Company which shall bear interest (at the IRS Applicable Federal Rate for the month of default) commencing from the date the Defaulted Amount was initially due until the date the Defaulted Amount is fully paid to the company. The Company may retain distributions otherwise payable to the Defaulting Member and shall apply such funds to the repayment of this loan; or

(ii) When one member is a Defaulting Member, the Manager may reallocate the percentage interests of all Members, increasing the percentage interest of those who have made contributions and decreasing the percentage interest of those who did not make a full contribution within ninety (90) days from the date a call is made.

(d) Withdrawals of Capital. No Member may withdraw any part of its capital contribution or receive any distributions from the Company except upon dissolution of the Company and as specifically provided by this Agreement.

(c) Loans to Company. With the exception of Section 5.2(c) below, no Member shall lend or advance money to or for the Company's benefit without the written approval of a majority of the other Members. If any Member, with the written consent of a majority of the other Members, lends money to the Company in addition to its contribution to Company capital, the loan shall be a debt of the Company to that Member, and shall bear a market rate of interest to be approved in writing by the Members. The liability shall not be regarded as an increase of the lending Member's capital, and it shall not entitle it to any increased share of the Company's net income, distributions or voting rights.

Section 2.2 Units in the Company. Each Member shall be issued by the Company the number of Units stated in Section 2.1(a) above. Thereafter, each Member who makes an additional capital contribution to the Company shall be issued additional Units by the Company, based upon the fair market value of the property contributed and the per Unit fair market value of the Company at the time of the additional contribution. Fair market value shall be determined by mutual agreement of all the Members. The Company shall have the power to issue any number of Company Units as necessary to give effect to this Section 2.2. Company Units and Percentage Interests of each Member shall be set forth in attached Exhibit "B".

ARTICLE III

PROFITS AND LOSSES; DISTRIBUTIONS; DRAWING ACCOUNTS

Section 3.1 Interest in Profits and Losses. The Company's profits and losses shall be allocated among the Members in proportion to their respective Company percentage interests.

Section 3.2 Determination of Net Income and Net Losses. The Company's profits or losses for each fiscal year shall be determined as soon as practicable after the close of that fiscal year in accordance with Section 1.7(o).

Section 3.3 Tax Status, Allocations and Reports.

(a) Unless otherwise agreed upon by the Members, the Company shall, for tax purposes, utilize the method of depreciation which will result in the greatest amount of deduction in each year.

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(b) The Manager shall prepare, or cause to be prepared, all tax returns which must be filed on behalf of the Company with any taxing authority and make timely filing thereof. The cost thereof shall be borne by the Company.

(c) For accounting and federal and state income tax purposes, all income, deductions, credits, gains and losses of the Company shall be allocated to the Members in proportion to their respective Membership percentage interest. Any item stipulated to be a Company expense under the terms of this Agreement, or which would be so treated in accordance with generally accepted accounting principles, shall be treated as a Company expense for all purposes hereunder, whether or not such item is deductible for purposes of computing net income for federal income tax purposes.

(d) In the event that the Company has taxable income that is characterized as ordinary income under the recapture provisions of the Code, each Member's distributive share of taxable gain or loss from the sale of Company assets (to the extent possible) shall include a proportionate share of this recaptured income equal to the Member's share of prior cumulative depreciation deductions with respect to the assets which gave rise to the recapture income.

Section 3.4 Tax Allocations: Code Section 704(c). In accordance with Code Section 704(c) and the Regulations thereunder, income, gain, loss and deduction with respect to any property contributed to the capital of the Company shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such property to the Company in accordance with Section 1.7(i) hereof.

In the event the Gross Asset Value of any Company asset is adjusted pursuant to Section 1.7(i) hereof, subsequent allocations of income, gain, loss and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its Gross Asset Value in the same manner as under Code Section 704(c) and the Regulations thereunder.

Any elections or other decisions relating to such allocations shall be made by the Manager in any manner that reasonably reflects the purpose and intention of this Agreement. Allocations pursuant to this Section 3.4 are solely for the purposes of federal, state and local taxes and shall not affect, or in any way be taken into account in

computing, any Member's Capital Account or share of Profits, Losses, other items or distributions pursuant to any provision of this Agreement.

Notwithstanding the preceding allocations, and to the extent the Manager deems it necessary to insure that the Operating Agreement and the allocations thereunder meet the requirements of the Code and the allocation regulations, allocations of the following type and in the following priority will be made to the appropriate Members in the necessary and required amounts as set forth in the Regulations before any other allocations under this Article III.

(a) Member nonrecourse debt minimum gain chargeback under the Regulations;

(b) In the event any Members unexpectedly receive any adjustments, allocations, or distributions described in various Regulations sections, items of Company income and gain to such Members in an amount and manner sufficient to eliminate the deficit balances in their Capital Accounts (excluding from such deficit balance amounts Members are obligated to restore under this Agreement.)

(c) Member nonrecourse deductions under Regulations Section 1.704-2(i) which will in all cases be allocated to the Member which bears the economic risk of loss for the indebtedness to which such deductions are attributable.

Section 3.5 Code Section 754 Adjustment. To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Code Section 734(b) or Code Section 743(b) is required, pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated to the Members in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to such Section of the Treasury Regulations.

Section 3.6 Company Expenses. All legal fees (except legal fees and expenses incurred by each member individually in connection with the formation and organization of the Company) architectural, engineering, consulting and other similar fees and

expenses reasonably incurred by the Manager in connection with the operation of the Company shall be deemed Company expenses and shall be reimbursed out of Company funds when such expenses and fees have been approved by the Manager.

Section 3.7 Net Cash From Sales or Refinancing. Except as otherwise provided in this Agreement, Net Cash From Sales or Refinancing shall be distributed, at such times as the Manager may determine, to the Members in proportion to their Company membership percentage interests.

Section 3.8 Cash Distribution to Members.

(a) The term "distributable funds" shall mean the amount by which the total of the cash on hand and in the Company's bank accounts (excluding net cash derived from sales or refinancing) is in excess of the reasonable cash requirements and repair and replacement reserves of the Company. The cash requirements shall include, but not be limited to, the amounts reasonably (in accordance with generally accepted accounting procedures) required for taxes, insurance premiums, debt service and other expenses of the Company. In addition, reasonable cash requirements shall include reserves for future acquisitions and development of real estate and other Company business and investment interests.

(b) The Company's distributable funds shall be determined and distributed at such times as the Manager may in its sole discretion determine that funds are available and earnings may be retained by the Company and transferred to Company Capital for the reasonable needs of the business as determined in the sole discretion of the Manager. Any distributions shall be in the following order of priorities:

(i) To Member(s) in proportionate amounts sufficient to cover taxes owed by the Members as a result of the income and operations of the Company. In making this distribution the highest income tax rate for married individuals filing jointly shall be assumed for each Member.

(ii) To make payments on any outstanding loans by any Member to the Company in accordance with the terms of said loans.

(iii) Finally, any remaining distributable funds shall be given to each Member according to his Capital Account balance.

Section 3.9 Taxation Classification of Company. The Company shall be presumed to be taxed as a partnership pursuant to income tax regulations §§ 301.7701-1 through 301.7701-3. However, should the Company, pursuant to N.R.S. 86.151, be organized or exist with one member, the partnership tax provisions as set forth in this agreement shall be suspended and the Company shall be presumed to be taxed as a sole proprietorship. If a one member Company ever adds another member to the Company the provisions in the agreement relating to partnership taxation shall thereupon be reinstated.

ARTICLE IV

LIMITED LIABILITY COMPANY ACCOUNTING; MEETINGS

Section 4.1 Fiscal Year; Accounting Method. The Company's fiscal year shall be from January 1 to December 31, and income or losses shall be reported on a cash basis for tax purposes.

Section 4.2 Company Books.

(a) Proper and complete books of account of the Company business shall be kept at the Company's principal place of business or such other place as the Manager shall designate. The books of account shall be maintained on a cash basis.

(b) Each Member, at its sole cost and expense, shall have the right at all times during usual business hours to audit, examine and make copies of or extracts from the Company's books of account. Such right may be exercised through any agent or employee of such Member designated by that Member or by an independent certified public accountant designated by such Member. The Member exercising such right shall bear all expenses incurred in any such examination made on the Member's behalf.

Section 4.3 Capital Accounts. An individual capital account shall be maintained for each Member, and the balance of said account shall be determined in accordance with 1.7(c) above.

Section 4.4 Bank Accounts. Funds of the Company shall be deposited in a Company account or accounts in the bank or banks approved by the Manager.

Withdrawals from such bank accounts shall be made only by parties previously approved, in writing, by the Manager.

Section 4.5 Annual Report. Within ninety (90) days after the end of each fiscal year of the Company or within such longer period as is reasonably necessary, the Manager shall make available to each Member an annual report. This report shall consist of a least (i) a copy of the Company's federal income tax returns for that fiscal year, and (ii) any additional information that the Members may require for the preparation of their federal and state income tax returns.

Section 4.6 Company Meetings. In the sole discretion of the Manager or upon the written request of a majority of the Members, a meeting may be held for all Members. The Manager shall review and discuss the financial statements at the meeting and report to the Members the financial condition of the Company. Upon the determination that the annual meeting shall take place; it shall be held at a place and time designated by the Manager. All Members shall receive prior notice of the date, time, and place of the meeting.

ARTICLE V

RIGHTS, POWERS AND DUTIES OF MANAGER(S)

Section 5.1 Authority of the Manager. The business of the Company shall be under the exclusive control and management of the Manager(s) who shall act by a majority vote in all business affairs. For these purposes a Manager shall have one vote. The Members shall not participate in the management of the business of the Company. The Managers shall have the right and power to:

(a) Acquire land, buildings or any other interest in real estate;

(b) Acquire by purchase, lease or otherwise any personal property which may be necessary, convenient or incidental to the accomplishment of the purposes of the Company;

(c) Execute any and all agreements, contracts, documents, certifications, and instruments necessary or convenient in connection with the management, maintenance and operation of the Company Property;

(d) Care for and distribute funds to the Members by way of cash, income, return of capital or otherwise, all in accordance with the provisions of this Agreement, and perform all matters in furtherance of the objectives of the Company or this Agreement;

(e) Contract on behalf of the Company for the employment and services of employees and/or independent contractors and delegate to such persons the duty to manage or supervise any of the assets or operations of the Company;

(f) Borrow money, mortgage or encumber Company Property in order to further the purposes of the Company;

(g) Sell or otherwise transfer Company Property or any part or parts thereof;

(h) Engage in any kind of activity and perform and carry out contracts of any kind (including contracts of insurance covering risks to Company Property and Manager liability) necessary or incidental to, or in connection with, the accomplishment of the purposes of the Company, as may be lawfully carried on or performed by a Company under the laws of each state in which the Company is then formed or qualified;

(i) Make any and all elections for federal, state and local tax purposes including, without limitation, any election, if permitted by applicable law:

(i) to adjust the basis of Company Property pursuant to Code Sections 754, 734, 743, or comparable provisions of state or local law, in connection with transfers of Membership interests and distributions to Members,

(ii) to extend the statute of limitations for assessment of tax deficiencies against Members and Membership interest holders in their capacity as Members and Membership interest holders, and

(iii) to execute any agreement or other documents relating to or affecting such tax matters or otherwise affect the rights of the Company, Members and Membership interest holders. The Manager(s) are specifically authorized to act as the "Tax Matters Partners" under the Code and in any similar capacity under state or local law.

(j) Select or vary depreciation and accounting methods and make other decisions with respect to treatment of various transactions for

federal income tax purposes, consistent with the other provisions of this Agreement;

(k) Invest and reinvest principal and income in such securities and properties as the Manager shall determine. The Manager is authorized to acquire, for cash or on credit (including margin accounts), every kind of property, real, personal or mixed, and every kind of investment (whether or not unproductive, speculative, or unusual in size or concentration), specifically including, but not by way of limitation, deeds of trust, corporate or governmental obligations of every kind and stocks, preferred or common, of both domestic and foreign corporations, shares or interests in any unincorporated association, Trust, or investment company, including property in which the Manager is personally interested or in which a Manager owns an interest;

(l) Have the power to invest Company assets in securities of every kind, including debt and equity securities, to buy and sell securities, to write covered securities options on recognized options exchanges, to buy-back covered securities options listed on such exchanges, to buy and sell listed securities options, individually and in combination, employing recognized investment techniques such as, but not limited to, spreads, straddles, and other documents, including margin and option agreements which may be required by securities brokerage firms in connection with the opening of accounts in which such option transactions will be effected. In addition, the Manager shall have the power to buy and sell stock rights and stock warrants;

(m) Determine whether or not distributions should be made to the Members, except as may specifically be set forth elsewhere in this Agreement; or

(n) Determine the maximum and minimum cash requirements of the Company.

(o) If the Company shall own any life insurance policy insuring the life of any Member or possess any incident of ownership, with respect to any such policy, the insured Member shall have no right or power to exercise or to participate in the exercise of any of the incidents of ownership, with respect to such policy, including, but not limited to, the right to borrow from the insurance company or any other person using such policy as collateral, to change or to prevent any change in the beneficiary designation under such policy, and to surrender the policy or any portion thereof for its cash surrender value or to cancel or terminate any such policy. Any exercise of any incident or ownership in any such policy shall

be exercised only by a majority of the Members other than the insured Member. Any decision of the Company to acquire or dispose of a life insurance policy insuring the life of any Member shall be made by a majority in interest of the Members other than the insured Member and without any participation by the insured Member.

Section 5.2 Authority to Pay Certain Fees and Expenses. The Members hereby acknowledge that in certain instances there may be certain circumstances that make it appropriate for the Company to contract for the performance of services or the purchase, sale or other disposition of goods or other property, by or with some other party or entity related to or affiliated with the Members, or any one of them, or with respect to any entity to which the Members or any one of them may have a direct or indirect ownership or controlling interest; however, in each such instance:

(a) Any such services, goods or property obtained from any such person or entity shall be on terms no less favorable to the Company than those reasonably available from third parties.

(b) The sale, lease or other transfer of any portion of the Property to any such person or entity shall be on terms and at a price no less favorable to the Company than those reasonably available to third parties.

(c) A Member shall be reimbursed by the Company for the reasonable out-of-pocket expenses incurred by such Member of behalf of the Company in connection with the Company's business and affairs upon presentment of proper receipts and invoices.

Section 5.3 Waiver of Self-Dealing.

(a) The Manager(s) shall have the authority to enter into any transaction on behalf of the Company despite the fact that another party to the transaction may be (1) a trust of which a Member is a trustee or beneficiary; (2) an estate of which a Member is a personal representative or beneficiary; (3) a business controlled by one or more Members or a business of which any Member is also a director, officer or employee; (4) any affiliate, employee, stockholder, associate, manager, partner, Member or business associate; (5) any Member, acting individually; or (6) any relative of a Member; provided the terms of the transaction are no less favorable than those the Company could obtain from unrelated third parties.

(b) A Member may engage in or possess an interest in any other business or venture of any nature and description, independently or with others, including ones in competition with the Company, with no obligation to offer to the Company or any other Member the right to participate. Neither the Company nor its Members shall have by virtue of this Agreement any right in any independent venture or its income or Profits.

Section 5.4 Right to Rely on Manager. Any Person dealing with the Company may rely upon a certificate signed by all of the Members as to:

(a) The identity of the Manager;

(b) The existence or nonexistence of any fact or facts which constitute a condition precedent to acts by a Manager or which are in any other manner germane to the affairs of the Company;

(c) The Persons who are authorized to execute and deliver any instrument or document of the Company; or

(d) Any act or failure to act by the Company or any other matter whatsoever involving the Company or any Member.

Section 5.5 Bond. No one serving as a Manager will be required to furnish a fiduciary bond or other security as a prerequisite to his, her or its service.

Section 5.6 Fiduciary Duties. The Manager(s) shall manage and control the affairs of the Company to the best of their ability, and the Manager(s) shall use their best efforts to carry out the purposes of the Company for the benefits of all the Members. In exercising their powers, the Manager(s) recognize their fiduciary responsibilities to the Company. The Manager(s) shall have fiduciary responsibility for the safekeeping and use of all funds and assets of the Company, whether or not in their immediate possession and control. The Manager(s) shall not employ, or permit another to employ, such funds or assets in any manner except for the exclusive benefit of the Company and its Members. The Manager(s) shall comply with all rules, regulations, and duties incumbent upon a Manager acting in its fiduciary capacity on behalf of the Company and the Members and shall be liable for any breach of such fiduciary duties, whether any such breach is willful or negligent.

ARTICLE VI

SALARY TO MANAGER

It is the intention of all the Members that each Manager may receive a reasonable compensation for services rendered to the Company. Therefore, the Manager(s) may receive a reasonable salary for services rendered, payable at least annually. If paid, this salary shall be in addition to their respective share of the Company's profits. The amount of compensation paid to a Manager may be reviewed and adjusted periodically.

ARTICLE VII

ROLE AND LIABILITY OF MEMBERS

Section 7.1 Rights or Powers. Except as otherwise set forth in Section 7.2 below, the Members shall have no rights or powers to take part in the management and control of the Company and its business and affairs.

Section 7.2 Voting Rights. The Members shall have the right to vote on the matters explicitly set forth in this Agreement. Those matters to be voted on by the Members can be done by written consent. Such a written consent may be utilized at any meeting of the Members, or it may be utilized in obtaining approval by the Members without a meeting.

Section 7.3 Liability of Members. No Member shall have any personal liability whatsoever to the creditors of the Company for the debts of the Company or any losses beyond its capital contribution.

In accordance with Nevada law, a Member may, under certain circumstances, be required to return to the Company, for the benefit of Company creditors, amounts previously distributed to it as a return of capital. For purposes of this Section 7.3, the Members intend that no distribution to any Member of distributable funds or of the proceeds of any sale or financing shall be deemed a return or withdrawal of capital, even if such distribution represents, for federal income tax purposes or otherwise (in whole or in part), a return of capital, and that no Member shall be obligated to pay any such amount to or for the account of the Company or any creditor of the Company. However,

if any court of competent jurisdiction holds that, notwithstanding the provisions of the Agreement, any Member is obligated to make any such payment; such obligation shall be the obligation of such Member and not of the Manager.

Section 7.4 Representations of Members. Each Member hereby represents and warrants to the other Members and to the Company that such Member:

(a) Understands and agrees that its interest in the Company has not been registered under the Securities Act of 1933 or any similar state law regulating the offer or sale of securities and, therefore, such interest may not be transferred except in accordance with an effective registration under such Act and state law, or pursuant to an available exemption therefore;

(b) Takes its interest for its own account and not with any intent towards the resale or distribution thereof;

(c) Has read and fully understands and agrees to be bound by all of the terms and provisions of the Agreement;

(d) To the extent that such Member has had any questions with respect to the Company, this Agreement or any other matter bearing upon such Member's decision to enter into the Company, has had a full and complete opportunity to make inquiry of the Managers and has had all of its questions answered to its full and complete satisfaction;

(e) Is capable of evaluating the relative merits and risks presented by an investment in the Company, and to the extent the Member has desired to do so, the Member has consulted with its own independent legal, tax and investment advisers, and has determined that the investment in the Company is suitable to the Member, both in terms of its investment objectives and in terms of its financial situation; and

(f) Understands that the investment in the Company is a high risk, illiquid investment, that transfer of the Membership interest is restricted pursuant to the Company Operating Agreement, and that there presently exists no market for the Membership Interest and it is unlikely that one will develop; that transfers, offers or sales of the Membership Interest are subject to the restrictions and conditions of the Securities Act of 1933, among which are included a requirement that, prior to a transfer, offer, or sale, either a registration statement under such act and under the applicable state securities laws be filed covering interests in the Company, or

an exemption from registration under such act and under such state securities laws is available.

Any other provision of the Agreement to the contrary notwithstanding, each Member agrees that such Members will not sell, assign or otherwise transfer all or any portion of it interest in the Company to any Person who does not similarly represent and warrant and similarly agree not to sell, assign or transfer such interest, or portion thereof, to any Person who does not similarly represent, warrant and agree.

ARTICLE VIII

SALE OF A LIMITED LIABILITY COMPANY MEMBERSHIP INTEREST

Section 8.1 Sale of Interest of Member. A Member may sell his Membership interest, but only after he has first offered it to the Company or other Members and under the conditions as follows:

(a) The Member shall give written notice to the Company that he desires to sell his interest. He shall attach to that notice the written offer of a prospective purchaser. This offer shall be complete in all details of purchase price and terms of payment. The Member shall certify that the offer is genuine and in all respects what it purports to be.

(b) For one hundred twenty (120) days from receipt of the written notice from the Member, the Company shall have the option to retire the interest of the Member at the price and on the terms contained in the offer submitted by the Member.

(c) If the offer is rejected in whole or in part by the Company, the interest or the remaining interest of the Member shall next be offered in writing to the other Members for a period of thirty (30) days next following the expiration of the one hundred twenty (120) day period. The offer to the other Members shall be prorated in accordance with the ratio of the Membership interests of each Member to the total Membership interest of all of the Members other than the one making the offer, on the terms and at prices (as to each offeree) determined by pro-rating the price. If not all the remaining interest is disposed of under the apportionment, each Member desiring to purchase a portion of the remaining interest shall be entitled to purchase the portion that remains undisposed of as his interest in the Company determined under Article III bears to the interest in the capital of the Company of all other Members desiring to purchase portions of the remaining interest. Any

unaccepted Membership interest shall continue to be offered to all Members who have not rejected any of the pro-rata interests offered to them until all the Membership interest has been purchased or the remaining Membership interest has been rejected by all Members. Each offer period following the initial 30-day period provided for above shall continue for only fifteen (15) days following expiration of the prior offer period.

(d) Notwithstanding the foregoing in 8.1(b) and 8.1(c) above, the purchaser(s) of the Membership interests shall have the options to make payment for the interest as follows:

(i) The Company or Members purchasing the interest shall be entitled to pay upon closing an amount equal to the present value of the offer made by the prospective purchaser, discounted at the average of the prevailing prime rate of the three largest banks in Nevada, less one (1) percent; or

(ii) The Company or Members purchasing the interest may pay ten percent (10%) of the total purchase price on closing, and the balance payable over a period of time not in excess of ten years, as evidenced by an installment promissory note, payable in equal annual installments over the term of the note, the first annual payment coming due on the date which is one (1) year from the closing date of sale of the Membership interest, bearing interest at the average of the then prevailing prime rate of the three largest banks in Nevada, less one (1) percent.

(e) If the Company or other Members do not exercise the option to acquire his interest, the Member shall be free to sell his Membership interest to the said prospective purchaser for the price, and on the terms contained in the certified offer submitted by the Member.

(f) Any sale or transfer or purported sale or transfer of any Membership interest shall be null and void unless made strictly in accordance with the provisions of this Article. The transferee of any Member's interest in the Company shall be subject to all the terms, conditions, restrictions and obligations of this Agreement, including the provisions of this Article VIII.

Section 8.2 Assignment. A Member may make a gratuitous assignment of his Membership interest to other Members without the consent of any other Member. A Member may sell his Membership interest to other Members in the same manner as provided in 8.1, as though the purchasing Member were a third-party purchaser.

Section 8.3 Estate Planning Transfers. A Member will also have the right to make estate planning transfers of all or any part of his or her ownership interest in the Company. The term "estate planning transfer" will mean any transfer (a) by any Member on account of such Member's death to a transferee permitted under this Section 8.3; (b) by a Member to a trust for the benefit of, or a corporation or partnership at least eighty percent (80%) of the equity of which is owned by the Member, the Member's spouse or Lineal Ancestors or Lineal Descendants of the Members; (c) by way of dissolution or liquidation to the beneficiaries or equity owners of a trust, corporation or partnership that would qualify as a transferee under clause (b) of this sentence; or (d) in respect to any individual Member, the transfer or assignment by gift of bequest to such Member's Lineal Ancestors or Lineal Descendants. In the event of any transfer pursuant to this Section, the Assignee Member shall be bound by this Agreement. In no event, however, shall any transfer pursuant to this Section 8.3 relieve the transferor of any of its obligations under this Agreement.

Section 8.4 Unauthorized Transfers. The Company will not be required to recognize the interest of any transferee who has obtained a purported interest as the result of a transfer of ownership which is not an authorized transfer. If the ownership of a Membership interest is in doubt, or if there is reasonable doubt as to who is entitled to a distribution of the income realized from a Membership interest, the Company may accumulate the income until this issue is fully determined and resolved. Accumulated income will be credited to the capital account of the Member whose interest is in question.

Section 8.5 Substituted Member. No assignee or transferee of the whole or any portion of a Member's interest in the Company shall have the right to become a substituted Member in place of his assignor unless all of the following conditions are satisfied:

(a) The Manager(s), and a majority in interest of all the Members (not including any assignee of a Membership interest) have consented in writing to the admission of the assignee as a substituted Member;

(b) The fully executed and acknowledged written instrument of assignment which has been filed with the Company sets forth the intention of the assignor that assignee become a substitute Member;

(c) The assignor and assignee execute and acknowledge such other instruments as the Manager(s) may deem necessary or desirable to effect such admission, including the written acceptance and adoption by the assignee of the provisions of this Agreement; and

(d) A reasonable transfer fee, not exceeding $1,000.00, has been paid by assignee to the Company.

The Manager will be required to amend the Agreement of the Company only annually to reflect the substitution of Members. Until the Agreement of the Company is so amended, an assignee shall not become a substituted Member.

The death, legal incapacity, bankruptcy, or dissolution of a Members shall not cause a dissolution of the Company, but the rights of such Member to share in the income or loss of the Company and to receive distributions shall, on the happening of such an event, devolve on his personal representative, or in the event of the death of one whose Membership Interest is held in joint tenancy, pass to the surviving joint tenants, subject to the terms and conditions of this Agreement. However, in no event shall such personal representative or surviving joint tenant become a substituted Member solely by reason of such capacity. It is understood that each of the Members who are individuals will have made provision for a testamentary disposition of their Interest in the Company to a transferee(s) permitted under Section 8.3, so that upon death their beneficiary or beneficiaries will be directed to accede to the Membership Interest and this Agreement. If a Member's death results in a transfer that is not in compliance with this understanding, the interest of the deceased member shall be treated as an interest passing to an unapproved transferee and shall be specifically subject to the terms and conditions of Section 8.7 below. The estate of the Member shall be liable for all the obligations of the deceased or incapacitated Member.

Except as specifically provided in Section 8.9, in the event a vote of the Members shall be taken pursuant to this Agreement for any reason, a Member shall, solely for the purpose of determining the number of Membership interests held by him in weighing his

vote, be deemed the holder of any Membership interest assigned by him in respect of which the assignee has not become a substituted Member.

Section 8.6 Non-Registration of Securities. The ownership and transfer of a limited liability company interest is further subject to the following disclosure and condition:

> **THE LIMITED LIABILITY COMPANY MEMBERSHIP INTERESTS OF VIDA SPA, LLC HAVE NOT BEEN, NOR WILL BE, REGISTERED OR QUALIFIED UNDER FEDERAL OR STATE SECURITIES LAWS. THE LIMITED LIABILITY COMPANY INTERESTS OF VIDA SPA, LLC MAY NOT BE OFFERED FOR SALE, SOLD, PLEDGED OR OTHERWISE TRANSFERRED UNLESS SO REGISTERED OR QUALIFIED, OR UNLESS AN EXEMPTION FROM REGISTRATION OR QUALIFICATION EXISTS. THE AVAILABILITY OF ANY EXEMPTION FROM REGISTRATION OR QUALIFICATION MUST BE ESTABLISHED BY AN OPINION AND COUNSEL FOR THE OWNER THEREOF, WHICH OPINION AND COUNSEL MUST BE REASONABLY SATISFACTORY TO VIDA SPA, LLC.**

Section 8.7 Purchase of Membership Interests from Unapproved Transferees. If any person or agency should acquire an interest of the Company as the result of an order of a court of competent jurisdiction including, but not limited to, an order incident to divorce, insolvency, or bankruptcy of a Member which order the Company is required to recognize, or if a Manager or Member makes an unauthorized transfer of a Membership interest which the Company is required to recognize, the interest of the transferee may then be acquired by the Company upon the following terms and conditions:

(a) The Company will have the option to acquire the interest by giving written notice to the transferee of it intent to purchase within 90 days from the date it is finally determined that the Company is required to recognize the transfer.

(b) The Company will have 180 days from the first day of the month following the month in which it delivers notice exercising its option to purchase the interest. The valuation date for the Membership interest will be the first day of the month following the month in which the notice is delivered.

(c) Unless the Company and the transferee agree otherwise, the fair market value of a Membership interest is to be determined by the written appraisal of a person or firm qualified to value this type of business. In the event the parties cannot agree upon one appraiser, then the buyer and seller of the Membership interest shall each select an appraiser ("Appraiser 1" and "Appraiser 2" respectively); the two appraisers shall jointly select a third appraiser ("Appraiser 3"). The value arrived at by appraisal shall be determined by Appraiser 1 and Appraiser 2 submitting their separate appraisals to Appraiser 3. Appraiser 3 shall independently review the appraisals and shall select one appraisal between the two appraisals submitted as the appraisal which, in the opinion of Appraiser 3, best represents the value of the limited liability company, and that appraisal so selected shall be used to determine the value of the limited liability company interest being sold pursuant to this Section 8.7. All appraisals shall include adjustments to recognize appropriate valuation discounts, including but not limited to discounts for marketability and lack of control.

(d) Closing of the sale will occur at the registered office of the Company at 10:00 o'clock a.m. on the first Tuesday of the month following the month in which the valuation report is completed and delivered to the parties to the sale. During the period of time prior to the closing date, the transferee will be considered a non-voting owner of the Membership interest.

(e) In order to reduce the burden upon the resources of the Company, the Company will have the option, to be exercised in writing delivered at closing, to pay its purchase money obligation in 10 equal annual installments (or the remaining term of the Company if less than 10 years) with interest thereon at market rates, adjusted annually as of the first day of each calendar year at the option of the Manager. The term "market rates" will mean that average of the rates of interest prescribed as their "prime rate" by the three largest banks in the State of Nevada on the first day of the then calendar year, less one percent (1%). If Internal Revenue Code Sections 483 and 1274A apply to this transaction, the rate of interest of the purchase money obligation will be fixed at the rate of interest then required by law. The first installment of principal, with interest due thereon, will be due and payable on the first day of the calendar year following closing, and subsequent annual installments, with interest due thereon, will be due and payable, in order, on the first day of each calendar year which follows until the entire amount of the obligation, principal and interest, is fully paid. The Company will have the right to prepay all or any part of the purchase money obligation at any time without premium or penalty.

(f) The Manager may assign the Company's option to purchase to one or more of the remaining Members (this with the affirmative consent of no less than 50% of the remaining Members, excluding the interest of the Member or transferee whose interest is to be acquired), and when done, any rights or obligations imposed upon the Company will instead become, by substitution, the rights and obligations of the Members who are assignees.

(g) Neither the transferee of an unauthorized transfer nor the Member causing the transfer will have the right to vote during the prescribed option period or, if the option to purchase is timely exercised, until the sale is actually closed.

Section 8.8 Conditions of Transfer of Member's Interest. Subject to any restrictions on transferability required by law or contained elsewhere in this Agreement, all transfers of Membership interests shall be subject to the following restrictions, conditions, terms, duties, and obligations:

(a) The assignee meets all of the requirements applicable to a Substituted Member and consents in writing in a form satisfactory to the Manager to be bound by the terms of this Agreement;

(b) The Manager(s) consent in writing to the assignment, which consent shall be withheld only if such assignment does not comply with Section 8.7(a), if such assignment is to a tax-exempt entity or a nonresident alien, or if such assignment would jeopardize the status of the Company as a Partnership for federal income tax purposes, would cause the Company to be terminated under Code Section 708, or would violate, or cause the Company to violate, any applicable law or governmental rule or regulation, including without limitation, any applicable federal or state securities law; and

(c) If requested by a majority of the Members, an opinion from counsel for the Company is delivered to the Manager(s) at the expense of the transferring Member stating that, in the opinion of said counsel, such assignment would not jeopardize the status of the Company as a partnership for federal income tax purposes, would not cause the termination of the Company under Code Section 708, and would not violate, nor cause the Company to violate, any applicable law or governmental rule or regulation, including without limitation, any applicable federal or state securities law.

(d) By executing this Agreement, each Member shall be deemed to have consented to any assignment consented to by the Manager(s).

Anything herein to the contrary notwithstanding, in no event shall an assignment be made to a minor or to an incompetent (except in trust or pursuant to the Uniform Transfers to Minors Act).

(e) Each Member agrees that he will, upon request of the Manager(s), execute such certificates or other documents and perform such acts as the Manager(s) deem appropriate after an assignment of the Member's Interest to preserve the limited liability status of the Company under the laws of the jurisdictions in which the Company is doing business. For purposes of this Section 8.8, any transfer of any interest in the Company, whether voluntary or by operation of law, shall be considered an assignment.

(f) Each Member agrees that he will, prior to the time the Manager(s) consent to an assignment of any interest by that Member, pay all reasonable expenses, including attorneys' fees, incurred by the Company in connection with such assignment.

(g) Each of the Members, by executing this Agreement, hereby covenants and agrees that he will not, in any event, sell or distribute any interest unless, in the opinion of counsel to the assignee (which counsel and opinion shall be satisfactory to counsel for the Company), such interest may be legally sold or distributed in compliance with then-applicable federal and state statutes.

(h) Anything herein to the contrary notwithstanding, both the Company and the Manager(s) shall be entitled to treat the assignor of an interest as the absolute owner thereof in all aspects, and shall incur no liability for distributions made in good faith to him, until such time as a written assignment that conforms to the requirements to this Article VIII has been received by the Company and accepted by the Manager(s).

ARTICLE IX

DURATION OF BUSINESS; DISSOLUTION

Section 9.1 Duration. The Company shall continue:

(a) Until all interests in the property acquired by it have been sold or disposed of, or have been abandoned; or

(b) Until dissolved and terminated as provided for hereinbelow.

Section 9.2 Termination of the Company. The Manager may terminate the interest of a Member and expel him:

(a) For interfering in the management of the Company affairs or otherwise engaging in conduct which could result in the Company losing its tax status as a partnership;

(b) If the conduct of a Member tends to bring the Company into disrepute or his interest becomes subject to attachment, garnishment, or similar legal proceedings; or

(c) For failing to meet any commitment to the Manager in accordance with any written undertaking.

In each of the foregoing events, the termination shall not result in the forfeiture to the Member of the value of his interest in the Company at the time of termination.

Section 9.3 Dissolution of Company. The Company shall be dissolved only upon the occurrence of any of the following events:

(a) The written consent or affirmative vote to dissolve the Company of all the Manager(s) and at least 90% of the then outstanding Membership interests.

(b) The failure to elect a successor to the Manager within 180 days of the death, resignation or removal of the surviving Manager in accordance with Section 10.5.

(c) Voluntary dissolution of the Company by agreement of all of the Members.

(d) The entry of a dissolution decree or judicial order by a court of competent jurisdiction or by operation of law.

Section 9.4 Reformation of Company. In the event of dissolution, the Members owning more that 50% of the then outstanding Membership interests may determine to re-form the Company and elect a new Manager in place of the Manager and continue the Company's business. In such event, the Company shall be dissolved and all of its assets and liabilities shall be contributed to a new Company which shall be formed and all parties to this Agreement and such new Manager shall become parties to such new Company. For purposes of obtaining the required vote to re-form the Company, Members owning 10% or more of the then outstanding Membership interests may cause to be sent to Members of record, as of a date no more than twenty (20) days prior to the date fixed by such Members for holding a Company meeting, a notice setting forth the

purpose of the meeting. Expenses incurred in the reformation, or attempted reformation, of the Company shall be deemed expenses of the Company.

Section 9.5 Distribution Upon Termination. In the event of dissolution and final termination, the Manager shall wind up the affairs of the Company, shall sell all the Company assets as promptly as is consistent with obtaining, insofar as possible, the fair value thereof, and after paying all liabilities, and including all costs of dissolution, and subject to the right of the Manager to set up cash reserves to meet short-term Company liabilities and other liabilities or obligations of the Company, shall distribute the remainder ratably to the Members pursuant to the relevant provisions of this Agreement.

Section 9.6 Procedure Upon Dissolution. On any dissolution and termination of the Company under this Agreement or applicable law, except as otherwise provided in this Agreement, the continuing operation of the Company's business shall be confined to those activities reasonably necessary to wind up the Company's affairs, discharge its obligations, and either liquidate the Company's assets and deliver the proceeds of liquidation or preserve and distribute its assets in kind promptly on dissolution. A notice of dissolution shall be published under applicable Nevada law, or as otherwise appropriate.

Section 9.7 Winding Up of the Company. Upon the dissolution of the Company, the proceeds from the liquidation of the assets of the Company and collection of the receivables of the Company, together with the assets distributed in kind, to the extent sufficient therefore, shall be applied and distributed in the following order of priority:

(a) To the payment and discharge of all the Company's debts and liabilities and the expenses of liquidation;

(b) To the creation of any reserves which the Members deem necessary for any contingent or unforeseen liabilities or obligations of the Company;

(c) To the payment and discharge of all of the Company's debts and liabilities owing to Members, but if the amount available for payment is insufficient, then pro rata in proportion to the amount of the Company debts and liabilities owing to each Member;

(d) To the Members according to their respective Company capital accounts.

Section 9.8 Gains or Losses in Process of Liquidation. Any gain or loss on disposition of Company properties in the process of liquidation shall be credited or charged to the Members in the proportions of their interests in profits or losses as determined under Article III. Any property distributed in kind in the liquidation shall be valued and treated as though the property was sold and the cash proceeds were distributed. The difference between the value of the property distributed in kind and its book value shall be treated as a gain or loss on sale of the property and shall be credited or charged to the Members in the proportions of their interests in profits and losses as specified in Article III, subject, however, to any allocation of gain or loss which may otherwise be required under the Internal Revenue Code of 1986, as amended.

Section 9.9 Company Continuity. For so long as the Company shall exist, each Member waives the right to compel dissolution of the Company or to compel a partition of the property of the Company. No Member will have an ownership interest in the property of the Company. The Company, as an entity for federal income tax purposes and for state law purposes, will not terminate by reason of:

(a) The death, disability, bankruptcy or insolvency of a Member;

(b) The addition of a Manager or Member or the death, disability, removal, resignation or other act of withdrawal of a Manager or Member, unless at the conclusion of 180 days from the act of withdrawal, the Company does not, in fact, have at least one Manager or Member;

(c) The withdrawal or expulsion of a Member unless there are no remaining Members; or,

(d) Any other act or omission to act, not having the approval or consent of all Members, which is or may be construed to be a termination of the Company as an entity under Nevada law.

To the greatest extent permitted by Nevada law, any act or omission to act shall be resolved in favor of a continuation of the Company, without the requirement of liquidation and winding up.

ARTICLE X

REMOVAL, WITHDRAWAL AND ADMISSION OF SUCCESSOR MANAGERS

Section 10.1 Manager. The Manager of the Company shall be **GISSELLE PLATFOOT.**

Section 10.2 Cessation. A person shall cease to be a Manager upon the removal or withdrawal in accordance with this Section, Section 10.3 and 10.4 hereof, dissolution, legal incapacity, bankruptcy, death, adjudication of incompetence or any of the other events set forth in the Act and all of such Manager's rights and powers as a Manager shall be terminated, and such person shall cease to be a Manager. Any of the remaining Managers shall have the right to continue the business of the Company.

Section 10.3 Removal of a Manager. The Original Manager may be removed only on the occurrence of an event described in 10.2 above. Upon the written consent or affirmative vote of Members owning greater than 50% of the then outstanding Membership interests, any Manager may be removed if, simultaneously with such removal, a successor Manager is elected by the Members owning greater than 50% of the then outstanding Membership interests. Written notice of such determination setting forth the effective date of such removal shall be served upon the Manager, and as of the effective date, shall terminate all of such person's rights and powers as a Manager.

Section 10.4 Withdrawal of a Manager. Upon 30 days notice to the Members, any Manager may withdraw as a Manager at any time, provided that such Manager delivers to the Company an opinion of competent counsel to the effect that such withdrawal will not adversely affect the classification of the Company as a partnership for federal income tax purposes or classification as a Company for purposes of state law.

Section 10.5 Election of New Managers. In the event any person ceases to be a Manager pursuant to Section 10.2, 10.3, or 10.4 and as a consequence thereof the Company has no Manager, any Member may nominate one or more persons for election as Manager(s). No person shall become a Manager unless elected by an affirmative vote of a majority in interest of the Members.

Section 10.6 Amendment to the Articles of Organization of the Company. In the event a Manager is unwilling or unable to sign a required amendment to the Articles of Organization of the Company as evidence of withdrawal, substitution or addition of a Manager, the amended Articles may be signed by:

(a) The remaining Manager(s), if more than one Manager is then serving, and any successor elected by the Members or as otherwise designated by the Operation Agreement; or,

(b) If but one Manager was serving, and who ceases to serve for any reason, by the new Manager or Managers, as substitute or successor, and at least 50% interest of the Members.

Each Manager serving or to serve in the capacity of a Manager does hereby appoint its successor (or if there is more than one Manager serving at the time a Manager shall refuse or be unable to act, the remaining Manager or Managers) as its attorney in fact, to sign the amended certificate on its behalf.

Section 10.7 Termination of Executory Contracts With the Terminated Manager or Affiliates. All executory contracts between the Company and a Manager removed pursuant to 10.2, 10.3 or 10.4 hereof, may be terminated by the Company effective upon sixty (60) days' prior written notice of such termination to the Manager. The removed Manager thereof may also terminate and cancel any such executory contract effective upon sixty (60) days' prior written notice of such termination and cancellation given to the Company.

ARTICLE XI
POWER OF ATTORNEY

Section 11.1 Manager as Attorney-In-Fact. Each Member hereby makes, constitutes and appoints each Manager and each successor Manager, with full power of substitution and re-substitution, his true and lawful attorney-in-fact for him and in his name, place and stead and for his use and benefit, to sign, execute, certify, acknowledge, swear to, file and record:

(a) This Agreement and all agreements, certificates, instruments and other documents amending or changing this Agreement as now or hereafter amended which the Manager may deem necessary or

appropriate as permitted under the Company Operating Agreement to reflect only the following amendments or changes:

(i) the exercise by any Manager of any power granted to it under this Agreement;

(ii) any amendments adopted by the Members in accordance with the terms of this Agreement;

(iii) the admission of any substituted Member or Manager; and

(iv) the disposition by any Member of it interest in the Company; and

(b) Any certificates, instruments and documents as may be required by, or may be appropriate under, the laws of the State of Nevada or any other state or jurisdiction in which the Company is doing or intends to do business.

Each Member authorizes each such attorney-in-fact to take any further action which such attorney-in-fact shall consider necessary or advisable in connection with any of the foregoing.

Section 11.2 Nature as Special Power. The power of attorney granted pursuant to this Article XI:

(a) Is a special power of attorney coupled with an interest;

(b) May be exercised by any such attorney-in-fact by listing the Members executing any agreement, certificate, instrument or other document with the single signature of any such attorney-in-fact acting as attorney-in-fact for such Members; and

(c) Shall survive the death, disability, legal incapacity, bankruptcy, insolvency, dissolution, or cessation of existence of a Member and shall survive the delivery of an assignment by a Member of the whole or a portion of its interest in the Company, except that where the assignment is of such Member's entire interest in the Company and the assignee, with the consent of the Manager, is admitted as a substituted Member, the power of attorney shall survive the delivery of such assignment for the sole purpose of enabling any such attorney-in-fact to effect such substitution.

ARTICLE XII

MISCELLANEOUS

Section 12.1 Amendments. This Agreement may be amended at any time, and from time to time, upon the written approval of the Manager(s) and greater than 75% of the Membership interests.

Section 12.2 Notices. Any written notice to any of the Members required or permitted under this Agreement shall be deemed to have been duly given on the date of service, if served personally on the party to who notice is to be given, or on the second day after mailing, if mailed to the party to whom notice is to be given, by registered or certified mail, postage prepaid and addressed to the party at its last known address. Notices to the Company shall be similarly given, and addressed to it at its principal place of business.

Section 12.3 Governing Law. This Agreement is intended to be performed in the State of Nevada and the laws of that State shall govern its interpretation and effect.

Section 12.4 Successors. This Agreement shall be binding on and inure to the benefit of the respective Member's successors and assigns, except to the extent of any contrary provision in this Agreement.

Section 12.5 Severability. If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the Agreement shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

Section 12.6 Entire Agreement. This Agreement contains the entire agreement of the Members relating to the rights granted and obligations assumed under this Agreement. Any oral representations or modifications concerning this Agreement shall be of no force or effect unless contained in a subsequent written modification signed by the Member to be charged.

Section 12.7 Binding Effect. Except as otherwise provided in this Agreement, every covenant, term and provision of this Agreement shall be binding upon and inure to the benefit of the Members and their respective heirs, legatees, legal representatives, successors, transferees and assigns.

Section 12.8 Construction. Every covenant, term and provision of this Agreement shall be construed simply according to its fair meaning and not strictly for or against any Member.

Section 12.9 Time. Time is of the essence with respect to this Agreement.

Section 12.10 Headings. Section and other headings, contained in this Agreement are for reference purposes only and are not intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

Section 12.11 Incorporation by Reference. Every exhibit, schedule and other appendix attached to this Agreement and referred to herein is hereby incorporated in this Agreement by reference.

Section 12.12 Variation of Pronouns. All pronouns and any variations thereof shall be deemed to refer to masculine, feminine or neuter, singular or plural, as the identity of the Person or Persons may require.

Section 12.13 Waiver of Action for Partition. Each of the Members irrevocably waives any right that they may have to maintain any action for partition with respect to any of the Company Property.

Section 12.14 Counterpart Execution. This Agreement may be executed in any number of counterparts with the same effect as if all of the Members had signed the same document. All counterparts shall be construed together and shall constitute one agreement.

Section 12.15 Further Documents. Each Member agrees to perform any further acts and to execute and deliver any further documents reasonably necessary or proper to carry out the intent of this Agreement.

Section 12.16 Attorneys' Fees. If an action is instituted to enforce the provisions of this Agreement, the prevailing party or parties in such action shall be entitled to recover from the losing party or parties its or their reasonable attorneys' fees and costs as set by the Court.

Section 12.17 Elections Made by the Company. All elections required or permitted to be made by the Company under the Internal Revenue Code shall be made by the Manager(s) in such manner as will in their judgment be most advantageous to a majority in interest of the Members.

ARTICLE XIII
VIDA SPA, LLC

Section 13.1 Creation of the Series. Pursuant to N.R.S 86.296, "_____, LLC", a series of VIDA SPA, LLC, a Nevada Limited Liability Company, is hereby created. The rights, powers and duties of the Members of the _____, LLC are hereby adopted as set forth and enumerated in this Operating Agreement for VIDA SPA, LLC, a Nevada Limited Liability Company as evidenced in the Agreement to Adopt Operating Agreement as set forth on Schedule B and attached hereto as *Exhibit A*, which shall be incorporated herein by this reference. Pursuant to N.R.S 86.296, "_____, LLC", a series of VIDA SPA, LLC, a Nevada Limited Liability Company, is hereby created. The rights, powers and duties of the Members of the _____, LLC are hereby adopted as set forth and enumerated in this Operating Agreement for VIDA SPA, LLC, a Nevada Limited Liability Company as evidenced in the Agreement to Adopt Operating Agreement as set forth on Schedule B and attached hereto as *Exhibit B*, which shall be incorporated herein by this reference. Pursuant to N.R.S 86.296, "_____, LLC", a series of VIDA SPA, LLC, a Nevada Limited Liability Company, is hereby created. The rights, powers and duties of the Members of the _____, LLC are hereby adopted as set forth and enumerated in this Operating Agreement for VIDA SPA, LLC, a Nevada Limited Liability Company as evidenced in the Agreement to Adopt Operating Agreement as set forth on Schedule B and attached hereto as *Exhibit C*, which shall be incorporated herein by this reference.

Section 13.2 Debts, Liabilities, Obligations and Expenses of Series. Pursuant to N.R.S. 86.296(3), the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to: 1) _____, LLC; 2) _____, LLC, and 3) _____, LLC, are enforceable against the assets of each series only, and not against the assets of the series generally or any other series.

Section 13.3 Separation of Assets and Separate Accounting. Separate and distinct records are to be maintained for the series and the assets associated with the series are to be held, directly or indirectly, including through nominee or otherwise, and accounted for separately from the other assets of the series and any other series. Any transfer of assets or use of assets that would violate N.R.S 86.296 or this Section 13.03 shall be treated as a loan or lease between the entities, as the case may be, so that the assets of each entity are always held and accounted for separately.

[THIS SECTION LEFT BLANK INTENTIONALLY]
[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Manager and Member have executed this Operating Agreement of **VIDA SPA, LLC,** on the day above written.

MANAGER:

GISSELLE PLATFOOT

MEMBER:

ART MATRIX, INC., a Nevada corporation

By: VAZRIK MAKARIAN, Officer

GISSELLE PLATFOOT

SCHEDULE "A"

SCHEDULE "B"

MEMBER:	PERCENTAGE INTEREST:	UNITS:
ART MATRIX, INC.	50%	500
GISSELLE PLATFOOT	50%	500

SCHEDULE "C"

INVENTORY OF SERIES

1. _____, LLC (Exhibit A) – September___, 2016
2. _____, LLC (Exhibit B) – September___, 2016
3. _____, LLC (Exhibit C) – September___, 2016

STATE OF NEVADA

STEVE SISOLAK
Governor

RICHARD WHITLEY, MS
Director

LISA SHERYCH
Interim Administrator

IHSAN AZZAM, PH.D., MD
Chief Medical Officer

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH
BUREAU OF HEALTH CARE QUALITY AND COMPLIANCE
727 Fairview Dr., Suite E, Carson City, NV 89701
Telephone: 775-684-1030, Fax: 775-684-1073
dpbh.nv.gov

NOTICE OF NONCRIMINAL JUSTICE APPLICANT'S RIGHTS, CONSENTS AND SELF DISCLOSURE OF CRIMINAL HISTORY

FINGERPRINT BACKGROUND WAIVER - NOTICE OF NONCRIMINAL JUSTICE APPLICANT'S RIGHTS

As an applicant who is the subject of a Federal Bureau of Investigation (FBI) fingerprint-based criminal history record check for a noncriminal justice purpose you have certain rights which are discussed below.

1. You must be notified by (enter name of requesting agency) Division Public and Behavioral Health that your fingerprints will be used to check the criminal history records of the FBI and the State of Nevada.

2. If you have a criminal history record, the officials making a determination of your suitability for the job, license or other benefit for which you are applying must provide you the opportunity to complete or challenge the accuracy of the information in the record. You may review and challenge the accuracy of any and all criminal history records which are returned to the submitting agency. The proper forms and procedures will be furnished to you by the Nevada Department of Public Safety, Records Bureau upon request. If you decide to challenge the accuracy or completeness of your FBI criminal history record, Title
28 of the Code of Federal Regulations, Section 16.34, provides for the proper procedure to do so:

> 16.34 - Procedure to obtain change, correction or updating of identification records. If after reviewing his/her identification record, the subject thereof believes that it is incorrect or incomplete in any respect and wishes changes, corrections or updating of the alleged deficiency, he/she should make application directly to the agency which contributed the questioned information. The subject of a record may also direct his/her challenge as to the accuracy or completeness of any entry on his/her record to the FBI, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306. The FBI will then forward the challenge to the agency which submitted the data requesting that agency to verify or correct the challenged entry. Upon the receipt of an official communication directly from the agency which contributed the original information, the FBI CJIS Division will make any changes necessary in accordance with the information supplied by that agency.

3. Based on 28 CFR § 50.12 (b), officials making such determinations should not deny the license or employment based on information in the record until the applicant has been afforded a reasonable time to correct or complete the record or has declined to do so.

4. You have the right to expect that officials receiving the results of the fingerprint-based criminal history record check will use it only for authorized purposes and will not retain or disseminate it in violation of federal or state statute, regulation or executive order, or rule, procedure or standard established by the National Crime Prevention and Privacy Compact Council.

5. I hereby authorize (enter name of requesting agency) Division Public and Behavioral Health, to submit a set of my fingerprints to the Nevada Department Public Safety, Records Bureau for the purpose of accessing and reviewing State of Nevada and FBI criminal history records that may pertain to me. In giving this authorization, I expressly understand that the records may include information pertaining to notations of arrest, detainments, indictments, information or other charges for which the final court disposition is pending or is unknown to the above referenced agency. For records containing final court disposition information, I understand that the release may include information pertaining to dismissals, acquittals, convictions, sentences, correctional supervision information and information concerning the status of my parole or probation when applicable.

6. I hereby release from liability and promise to hold harmless under any and all causes of legal action, the State of Nevada, its officer(s), agent(s) and/or employee(s) who conducted my criminal history records search and provided information to the submitting agency for any statement(s), omission(s), or infringement(s) upon my current legal rights. I further release and promise to hold harmless and covenant not to sue any persons, firms, institutions or agencies providing such information to the State of Nevada on the basis of their disclosures. I have signed this release voluntarily and of my own free will.

CONSENT TO CHECK OF REGISTRIES

I consent to have a check of registries conducted, including, but not limited to, any government abuse registries, licensing registries, sexual abuse registries, the Office of Inspector General List of Excluded Individuals and Entities registry and any other registries that may be required by the Division of Public and Behavioral Health.

SELF DISCLOSURE STATEMENT OF CRIMINAL HISTORY

I attest that I have never been convicted of any of the following crimes:

- Murder, voluntary manslaughter or mayhem;
- Assault or battery with intent to kill or to commit sexual assault or mayhem;
- Sexual assault, statutory sexual seduction, incest, lewdness or indecent exposure, or any other sexually related crime that is punished as a felony (including felony prostitution);
- A crime involving domestic violence that is punished as a felony;
- Abuse or neglect of a child or contributory delinquency;
- Abuse, neglect, exploitation or isolation of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to NRS 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct;
- A violation of any provision of NRS 422.450 to NRS 422.590, inclusive; or
- Any other felony involving the use or threatened use of force or violence against the victim or the use of a firearm or other deadly weapon.

I attest that I have not been convicted of any of the following crimes within the immediately preceding 7 years:

- Prostitution, solicitation, lewdness or indecent exposure, or any other sexually related crime that is punished as a misdemeanor;

- A crime involving domestic violence that is punished as a misdemeanor;
- A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;
- A violation of any provision of law relating to the State Plan for Medicaid or a law of any other jurisdiction that prohibits the same or similar conduct;
- A criminal offense under the laws governing Medicaid or Medicare;
- Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property; or
- An attempt or conspiracy to commit any of the offenses listed in this Self Disclosure Statement of Criminal History section.

CONSENT TO BE ENROLLED IN A RAP (Record of Arrests and Prosecutions) BACK SYSTEM
(optional – check only if you consent)
☐ I understand that if I check this box, the facility, hospital, agency, program or home I am under employment/contract/service with or the Division of Public and Behavioral Health may enroll me in a RAP (Record of Arrests and Prosecutions) back system which would allow the Central Repository for Nevada Records of Criminal Hist01y to notify my employer and the Division of Public and Behavioral Health of any criminal offenses that I may be convicted of in the future.

AUTHORIZATION OF SUBMISSION OF FINGERPRINTS
I authorize the submission of my fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its background check report.

A reproduction of this authorization for release of information by photocopy, facsimile or similar process, shall for all purposes be as valid as the original.

In consideration for processing my application I, the undersigned, whose name and signature voluntarily appears below; do hereby and irrevocably agree to the above.

I understand that a person who willfully provides a false statement or information connected with a background investigation that would disqualify the person from employment, including without limitation, a conviction of a crime listed in NRS 449.174, is guilty of a misdemeanor.
I declare under penalty of perjury that the foregoing is true and correct.
Executed on:

Applicant's Name: _____
(PLEASE PRINT LAST, FIRST, MIDDLE)

Address: _____

Applicant's Signature:_____ Date:_____

Submitting Agency: Division of Public and Behavioral Health
Address: 727 Fairview Drive, Suite E, Carson City, NV 89701

Agency representative:
Michelle Smothers
(PLEASE PRINT LAST, FIRST, MIDDLE)

Agency representative's Signature: Michelle Smothers Date: _____

Regulatory

Health Facilities

Medical Laboratories and Personnel

Health Facilities

Blog

Staff List

Office Locations

Listserv Lists

Advisory Councils

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Community

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Certified Community Behavioral Health Centers (CCBHC)

Emergency Medical Systems (EMS)

Environmental Health

Health and Allied Personnel Licensing

Medical Marijuana

Radiation Control Programs

Regulatory Information

Regulatory Partners

Child Care Facilities

Environmental Health Complaints

Training & Education

Brown Bag Training

From time to time, HCQC hosts live "brown bag" training sessions about various important topics. Check back here regularly for new sessions (typically held at both northern and southern Nevada locations).

- None scheduled at this time

Online Courses

The Bureau of Health Care Quality and Compliance (HCQC) is working to make training courses available online through the State of Nevada Online Professional Development Center. Training courses can be accessed by clicking the links below; some of the training courses will require you to have an existing NEATS account or set one up (click here for instructions). Courses provided through other sites might have different access requirements; see those sites for details.

- Available courses
  - Personal Care Agencies Introductory Tutorial
  - New Operator Training for Residential Facilities for Groups (AGC) and Homes for Individual Residential Care (HIRC)
  - Elder Abuse/Adult Protective Services
  - Tuberculosis Testing
  - Nevada Automated Background Check System (NABS) - Fingerprinting and background checks

Infection Control

Nevada health officials and lawmakers take an active role in helping to prevent infections and disease within the state's health facilities. The resources below will help staff learn about the steps they can take to reduce such infections in their facilities.

- Nevada Healthcare Associated Infections Prevention and Control training
- Centers for Disease Control and Prevention

Self-Directed and Other Training

Select from one of these available trainings available in PDF. This information is not mandatory for licensing but provides guidance that can help avoid issues that can lead to sanctions or revocation of your license.

- Federal Health Facility Survey Process Training for Providers (from CMS)
- New Long-Term Care Survey Process
- Hand in Hand: A Training Series for Nursing Homes
  - Self-paced online training
  - Downloadable materials for instructor-led training
- Bed Bugs
- Scabies
- Medication Management
  - Frequently Asked Questions
  - State of Nevada Approved Medication Management Programs/Proctors
- Reacting to Catastrophic Event, What to Expect, How to Respond
- HCQC Bureau of Health Care Quality and Compliance

Last Updated: 10/10/2022

PHILLIPS 000101

Select Language | ▼

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Version 3.1

3225 S Rainbow Blvd. suite 206 Las Vegas, NV 89146

Employee Handbook and Contract

For: MD

Issue Date: 10/01/2020

Version Number: 1002

This is our new Employee Handbook. Please review it, sign the attached acknowledgment, and return to the management no later than 15 business days from the date handed to you.

You may keep a copy of the Handbook if you wish, but a copy will always be available to you through the HR department. If you do not wish to keep a copy, please return the Handbook to HR.

This Employee Handbook (the "Handbook") was developed to describe some of the expectations of our employees and to outline the policies, programs, and benefits available to eligible employees. Employees should familiarize themselves with the contents of the Handbook as soon as possible, for it will answer many questions about employment with VIDA SPA, LLC

GENERAL PRINCIPALS OF PRACTICE

The physician agrees to maintain at all times during the term of this agreement a current valid Medical license, Malpractice, DEA and pharmacy license to practice in the State of Nevada. A copy of each of the above is to be provided to VIDA SPA, LLC.

Confidentiality of Proprietary Information

Except to the extent required to comply with applicable laws or written orders of the Court or government agency, the physician assistant (PA), agrees to hold confidential all proprietary and confidential matters related to the practice and the business operations of VIDA SPA, LLC.

Non-Disclosure

The protection of confidential business information and trade secrets is vital to the interests and the success of VIDA SPA. Such confidential information includes, but is not limited to, the following examples:

- acquisitions
- compensation data
- computer processes
- computer programs and codes
- customer lists
- customer photos including but not limited before and after photos
- customer preferences
- financial information
- investments
- labor relations strategies
- marketing strategies
- new materials research
- partnerships
- pending projects and proposals
- proprietary production processes
- research and development strategies
- scientific data
- scientific formulae
- scientific prototypes
- technological data
- technological prototypes

All employees may be required to sign a non-disclosure agreement as a condition of employment. Employees who improperly use or disclose trade secrets or confidential business information will be subject to disciplinary action, up to and including termination of employment and legal action, even if they do not actually benefit from the disclosed information.

Ownership of Patient Records

The physician assistant (MD), recognizes and agrees that all case histories, personal and regular files/notes concerning patients of VIDA SPA, LLC including, without limitations, patients consulted, interviewed, treated, and cared for by physician assistant (PA) during his/her employment by the VIDA SPA, LLC shall belong to and remain the property of VIDA SPA, LLC. All charts are to be completed by the end of the day. All medical records are the property of VIDA SPA, LLC and are not to be removed from the facility for any reason.

OSHA Policies

Physician will abide by and enforce OSHA policies and procedures as required.

Job Descriptions

VIDA SPA maintains job descriptions to aid in orienting new employees to their jobs, identifying the requirements of each position, establishing hiring criteria, setting standards for employee performance evaluations, and establishing a basis for making reasonable accommodations for individuals with disabilities.

The management and the hiring manager prepare job descriptions when new positions are created. Existing job descriptions are also reviewed and revised in order to ensure that they are up to date. Job descriptions may also be rewritten periodically to reflect any changes in position duties and responsibilities. All employees will be expected to help ensure that their job descriptions are accurate and current, reflecting the work being done.

Employees should remember that job descriptions do not necessarily cover every task or duty that might be assigned, and that additional responsibilities may be assigned as necessary. Contact the management if you have any questions or concerns about your job description.

DOCTOR

- Language used in front of patients and throughout the office must be respectable and appropriate
- No discussion of personal matters is acceptable in front of patients
- No discussion of procedure fees with patients
- No discussion of pay rate among each other. Pay rates are not same for everyone.
- Answering personal phone calls is NOT permitted during procedures
- All providers and supporting staff must arrive to the office 10-15 minutes before the scheduled procedure time.
- Dress appropriately and professionally
- After three (3) write ups, all employees are subject to penalization up to termination.
- No one is authorized to take any products/supply from the office.

Items that must go through Gisselle or whoever she may assign in her place:

- Placing orders for products
- Gisselle or a designated manager are the ONLY one(s) who can give pricing, discounts, free goods to the patients.
- 50 % discount in all the procedures excluding (Botox, fillers)

Compensation

- Dr. Maryanne Phillips compensated at the rate of 20 % per procedure, after the following expenses are taking out including product, financial company fee such us care credit, HCS
- Post-surgery massages are not part of the compensation of the doctor.
- 15% Botox, fillers, PRP

Payroll

- Paid will bi-weekly or every other week.

Work Schedules

Work schedules for employees vary throughout our organization. Supervisors will advise employees of their individual work schedules. Staffing needs and operational demands may

necessitate variations in starting and ending times, as well as variations in the total hours that may be scheduled each day and week.

Vacation/ Day off

Vacation or day off time without pay will only be approved if provided in writing at least two weeks prior to your vacation "Staff day off request form" is available to use.

Attendance and Punctuality

To maintain a safe and productive work environment, VIDA SPA expects employees to be reliable and to be punctual in reporting for scheduled work. Absenteeism and tardiness place a burden on other employees and on VIDA SPA. In the rare instances when employees cannot avoid being late to work or are unable to work as scheduled, they should notify their supervisor as soon as possible in advance of the anticipated tardiness or absence.

Poor attendance and excessive tardiness are disruptive. Either may lead to disciplinary action, up to and including termination of employment.

Employee Conduct and Work Rules

To ensure orderly operations and provide the best possible work environment, VIDA SPA expects employees to follow rules of conduct that will protect the interests and safety of all employees and the organization.

It is not possible to list all the forms of behavior that are considered unacceptable in the workplace. The following are examples of infractions of rules of conduct that may result in disciplinary action, up to and including termination of employment:

- Theft or inappropriate removal or possession of property and supply
- Unauthorized disclosure of business "secrets" or confidential information
- Using before and after photos, documents and data of VIDA SPA customers posting on social media for personal and business gain.
- No FREE services/ procedures are allowed to be performed on each other, family members and friends without prior authorization from Gisselle, the owner.
- ALL products necessary to use for patients MUST be obtained and signed off by Gisselle or any person she assigned to act on her place.
- of timekeeping records
- Sharing password to clock in and out for each other.
- Working under the influence of alcohol or illegal drugs

- Possession, distribution, sale, transfer, or use of alcohol or illegal drugs in the workplace, while on duty or while operating employer-owned vehicles or equipment
- Fighting or threatening violence in the workplace
- Disruptive activity in the workplace
- Negligence or improper conduct leading to damage of employer-owned or customer-owned property
- Insubordination or other disrespectful conduct
- Violation of safety or health rules
- Smoking in the workplace
- Sexual or other unlawful or unwelcome harassment
- Possession of dangerous or unauthorized materials, such as explosives or firearms, in the workplace
- Excessive absenteeism or any absence without notice
- Violation of personnel policies
- Unsatisfactory performance or conduct

Nothing is this policy is intended to change the VIDA SPA's at-will employment policy. Employment with VIDA SPA is at the mutual consent of VIDA SPA and the employee, and either party may terminate that relationship at any time, with or without cause, and with or without advance notice.

Personal Appearance

Dress, grooming, and personal cleanliness, hygiene standards contribute to the morale of all employees and affect the business image that VIDA SPA presents to the community.

During business hours or when representing VIDA SPA, you are expected to present a clean, neat, and tasteful appearance. You should dress and groom yourself according to the requirements of your position and accepted social standards.

Your supervisor or department head is responsible for establishing a reasonable dress code appropriate to the job you perform. If your supervisor feels that your personal appearance is inappropriate, you may be asked to leave the workplace until you are properly dressed or groomed. Under such circumstances, you will not be compensated for the time away from work.

I hereby submit my signature below to confirm that I have read the above in its entirety and agree to follow the rules as stated.

Name_____ Signature _____ Date_____

Telephone: (702) 357-4406 NPI_____
Fax: (702) 357-4415
Pharmacy Line: (702) 860-8965

BioNutraceutical Health Solutions

Maryanne Phillips, MD
Medical Director
2121 E Flamingo Rd #112 Las Vegas, NV 89191

Name: _____

Address: _____ Date: _____

☐ Label
Refill - 0 -1 -2 -3 - 4 PRN

_____M.D.

Telephone: (702) 357-4406 NPI_____
Fax: (702) 357-4415
Pharmacy Line: (702) 860-8965

BioNutraceutical Health Solutions

Maryanne Phillips, MD
Medical Director
2121 E Flamingo Rd #112 Las Vegas, NV 89191

Name: _____

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Maryanne Phillips, MD
Medical Director
2121 E Flamingo Rd #112 Las Vegas, NV 89191

Name: _____

Address: _____ Date: _____

☐ Label
Refill - 0 -1 -2 -3 - 4 PRN

_____M.D.

VIKORSCIENTIFIC

Respira-ID™ Molecular Test Requisition

CLIA# 42D2150400 • CAP #8359749
22 WestEdge St • 8th Floor • Charleston, SC 29403
P 854.429.1069 F 833.247.4091

Patient Name _____ DOB ____/____/____ Collection Date ____/____/____

TEST SELECTION CHECK APPLICABLE BOXES **Sample Type / location** _____

Allergies: _____ Renal: ☐NML ☐ABNL Hepatic: ☐NML ☐ABNL

Provider Notes: _____

☐ Respira-ID™

Viruses

- ☐ Adenovirus 1 & 2 Alpha
- ☐ Adenovirus 1 & 2 Beta
- ☐ Coronavirus HKU1
- ☐ Coronavirus NL63
- ☐ Coronavirus OC43
- ☐ Coronavirus SARS-CoV-2
- ☐ Cytomegalovirus (HHV5)
- ☐ Enterovirus (A/B/C)
- ☐ Epstein-Barr virus (HHV4)
- ☐ Human Bocavirus (HBoV)
- ☐ Human Herpesvirus (HHV6)
- ☐ Human Metapneumovirus
- ☐ Influenza A virus (Pan)
- ☐ Influenza B virus (Pan)
- ☐ Parainfluenza 1
- ☐ Parainfluenza 2
- ☐ Parainfluenza 3
- ☐ Parainfluenza 4
- ☐ Respiratory Syncytial Virus A & B
- ☐ Varicella zoster virus (HHV3)

Bacteria

- ☐ Bordetella (PAN)
- ☐ Bordetella pertussis
- ☐ Chlamydophila pneumoniae
- ☐ Coxiella burnetii
- ☐ Haemophilus influenzae
- ☐ Klebsiella pneumoniae
- ☐ Legionella pneumophila
- ☐ Moraxella catarrhalis
- ☐ Mycobacterium avium complex (MAC)
- ☐ Mycoplasma pneumonia
- ☐ Pseudomonas aeruginosa
- ☐ Staphylococcus aureus
- ☐ Streptococcus agalactiae (group B)
- ☐ Streptococcus pneumoniae
- ☐ Streptococcus pyogens

Fungi

- ☐ Aspergillus fumigatus

Antibiotic Resistance Genes These are automatically tested in reflex to a positive pathogen.

Ampicillin Resistance
ampC
ACC
ACT/MIR
DHA

Extended-Spectrum-Betalactamase Resistance
blaNDM-1
GES
CTX-M Group 1
CTX-M Group 2
CTX-M Group 8/25
CTX-M Group 9
PER-1
PER-2
SHV
TEM
TEM E102K
TEM R162S
TEM G238S
VEB

Methicillin Resistance
mecA (MRSA)

Sulfonamide Resistance
SULI

Trimethoprim Resistance
DFRA

Carbapenem Resistance
blaOXA-48
IMP-7
IMP-10
KPC
NDM
OXA-1
OXA-23
OXA-40
OXA-48
OXA-72
OXA-58
VIM

Macrolide Resistance
ermA
ermB
ermC

Aminoglycoside Resistance
aac6-Ib/aacA4
aac6-Ib-cr
ant(3)
aph(A6)

Tetracycline Resistance
tetM

Quinolone Resistance
Gyrase A D87N_GTT
Gyrase A 583L_TGG
QnrA
QnrB

Polymyxin Resistance
mcr-1

Vancomycin Resistance
VanA1
VanA2
VanB

Medical Necessity MUST BE COMPLETED - ICDS Listed for Convenience Only - Please document applicable ICD-10 Codes.

( ) R50.9 Fever, unspecified
( ) R68.83 Chills (without fever)
( ) R.06.02 Shortness of breath
( ) R06.00 Dyspnea, unspecified
( ) J01.90 Acute sinusitus, unspecified
( ) J32.9 Unspecified sinusitus, chronic
( ) J00 Acute sasopharyngitis
( ) J31.0 Unspecified rhinitis
( ) J03.90 Acute tonsillitis
( ) J02.9 Acute pharyngitis
( ) R09.3 Abnormal sputum
( ) R07.81 Pleurodynia
( ) R07.82 Intercostal chest pain
( ) R06.9 Abnl of breathing, unspec
( ) R05.00 Cough
( ) R53.82 Chronic fatigue, unspec
( ) J06.9 Acute upper respiratory infections of unspecified site
( ) _____
( ) _____

Medical Provider Consent

This test is medically necessary for the risk assessment, diagnosis or detection of a disease, illness, impairment, symptom, syndrome or disorder. The results will determine my patient's medical management and treatment decisions. By my signature below, I indicate that I am the referring physician or authorized health care provider. I have explained the purpose of the test. The patient has been given the opportunity to ask questions and/or seek further counsel. The patient has voluntarily decided to have the test performed by Vikor Scientific. As the medical provider, I am responsible for documenting applicable ICD-10 diagnosis codes.

Medical Provider Signature _____ Date _____

SURGICAL PROCEDURE RECORD

Date: ____/____/_____ Time: _____

Patient Name (Last, First):_____ DOB:____/____/_____

Height_____ Weight: _____lb_____Kg Pregnancy Test results : (N) (P)

Covid 19 test results :_____Temp:_____Phone Number: _____

Emergency Contact (Name and phone number)_____

Pharmacy Name and Phone Number: _____

Allergies:	**Current Medication:**

Medications

Time	Medication	Dose	Route	Quantity	Ordered By	Initials

Vital Signs

TIME	O2 Sats	BP	HR	RR

DRESSINGS:_____

_____

_____

PROCEDURE:_____

EBL	FAT

NOTES:_____

_____

_____

_____

_____

_____

_____

_____

_____

MD/PA:_____Anesthesiologist:_____

Registered Nurse:_____MA _____

VIDA SPA

Patient Name_____ DOB_____ Date_____ Height_____
Weight_____ Pregnancy Test results_____ Allergies_____ Phone #_____

MEDICATIONS

Time	Medication	Dose	Route	Quantity	Ordered By	Initials

TIME	O2 Sats	BP	HR	RR

Tumescent time	Start	End	
Vaser Time	Start	End	
Liposuction Time	Start	End	
Areas of Liposuction	Tumescence	Aspiration	Fat

INCISION TIME_____ **END TIME**_____

DRESSINGS_____

PROCEDURE_____

_____

MD/PA_____ **Anesthesiologist**_____

Registered Nurse_____

NOTES_____

_____

_____

3225 S Rainbow Blvd, suite 107

Las Vegas, NV 89146

This Agreement is between VIDA SPA LLC, and Salvador Borromeo, MD

Entered into on this 29 day of May, 2020.

Whereas, Medical Doctor, is a physician who is eligible to be duly licensed under the Laws of state of Nevada. Desires to employ Medical Doctor and physician desires to accept such employment subject to the terms and conditions hereinafter set forth. Now, therefore, in consideration of the mutual covenants and agreements hereinafter Contained, the parties hereby agree as follows:

GENERAL PRINCIPALS OF PRACTICE AND DUTIES:

- Dr. Salvador Borromero is to supervise as the medical director for the physician assistants (PAs) and other licensee. Physician agrees to maintain at all times during the term of this agreement a current valid Medical license, Malpractice, DEA and pharmacy license to practice medicine in the State of Nevada.

- At least once a month, the supervising physician shall spend part of a day at any location where the physician assistants and all other licensee provides medical services to act as a consultant to the physician assistant and to monitor the quality of care provided by the physician assistant.
- A physician who supervises a physician assistant shall develop and carry out a program to ensure the quality of care provided by physician assistants. The program must include, without limitation:

a. An assessment of the medical competency of the physician assistants;
b. A review and initialing of selected charts;

3:18 P

Items that must go through Gisselle or whoever she may assign in her place:

- Placing orders for products
- Gisselle or designated person by her is the **ONLY** one who can give pricing, discounts, free goods to the patients.
- Gisselle or whomever she may assign are the **ONLY** ones who can dispense products that are locked in the cabinets.

Compensation and terms of agreement

- Dr. Salvador Borromero as Vida Spa, LLC medical director will be compensated at the rate of $3,000 per month for the first two (2) months as directorship fee.
- Beginning on the third (3) months, the rate will increase to $3,500.
- This will be a one year agreement. A minimum of 30 day notice is required by either party prior to termination. Except, any verified Nevada State board or malpractice violation committed by the licensee in which case termination will be immediate.

Payroll

- Payroll will process the paycheck once per month on the fourth Thursday of each month.

I hereby submit my signature below to confirm that I have read the above in its entirety and agree to follow the rules as stated.

Name Salvador Borromeo Signature Borromeo Date_____

Salvador Garcia BORROMEO III

License Number:	8770
License Type:	Medical Doctor
License Status:	Active
Initial License Date:	Aug-24-1998
Expiration Date:	Jun-30-2023
Public Address:	801 S. Rancho Drive Unit A-2 Ste A2
Public City:	Las Vegas
Public State:	Nevada
Public ZIP Code:	89106-3870
Public Country:	United States
Public Phone Number:	(702) 824-2307
Credential:	M.D.

Specialties

Specialty
Internal Medicine
Cardiovascular Diseases

Education History

Institution	Degree/Certificate	Date Enrolled	Date To
University of Santo Tomas / Manila, Philippines	Medical Doctor Degree	N/A	Mar-28-1984

Postgraduate Training

Institution	Program Type	Specialty Type	Start Date	End Date
Michigan State University / Ann Arbor, MI	Residency	Peds, Intensivist	Jun-01-1990	May-31-1994
Michigan State University / Ann Arbor, MI	Fellowship	Cardiovasc Diseases	Jul-01-1995	Jun-30-1998

Board Actions

Summary

MOJAVE HEART AND VASCULAR GROUP

SALVADOR G. BORROMEO, M.D.

DEA # BB3661279 LIC. # 8770 NPI # 1669461919

4200-A W. CHARLESTON BLVD.

LAS VEGAS, NV 89102

(702) 824-2307 TEL. (800) 579-9591 FAX

NAME _____ DOB _____

ADDRESS _____ DATE _____

TAMPER-RESISTANT SECURITY FEATURES LISTED ON BACK OF SCRIPT

℞

ILLEGAL

NAC 630.370 Supervising physician: Duties; qualifications. (NRS 630.130, 630.275)

1. The supervising physician is responsible for all the medical activities of his physician assistant. The supervising physician shall ensure that:

(a) The physician assistant is clearly identified to the patients as a physician assistant;

(b) The physician assistant performs only those medical services which have been approved by his supervising physician;

(c) The physician assistant does not represent himself in any manner which would tend to mislead the general public, the patients of the supervising physician or any other health professional; and

(d) There is strict compliance with:

(1) The provisions of the certificate of registration issued to his physician assistant by the State Board of Pharmacy pursuant to NRS 639.1373; and

(2) The regulations of the State Board of Pharmacy regarding controlled substances, poisons, dangerous drugs or devices.

2. Except as otherwise required in subsection 3 or 4, the supervising physician shall review and initial selected charts of the patients of the physician assistant. He shall be available at all times that his physician assistant is providing medical services to consult with his assistant. Those consultations may be indirect, including, without limitation, by telephone.

3. At least once a month, the supervising physician shall spend part of a day at any location where the physician assistant provides medical services to act as a consultant to the physician assistant and to monitor the quality of care provided by the physician assistant.

4. If the supervising physician is unable to supervise the physician assistant as required by this section, he shall designate a qualified substitute physician, who practices medicine in the same specialty as the supervising physician, to supervise the assistant.

5. A physician who supervises a physician assistant shall develop and carry out a program to ensure the quality of care provided by a physician assistant. The program must include, without limitation:

(a) An assessment of the medical competency of the physician assistant;

(b) A review and initialing of selected charts;

(c) An assessment of a representative sample of the referrals or consultations made by the physician assistant with other health professionals as required by the condition of the patient;

(d) Direct observation of the ability of the physician assistant to take a medical history from and perform an examination of patients representative of those cared for by the physician assistant; and

(e) Maintenance by the supervising physician of accurate records and documentation regarding the program for each physician assistant supervised.

6. Except as otherwise provided in subsection 7, a physician may supervise a physician assistant if the physician:

(a) Holds an active license in good standing to practice medicine issued by the Board;

(b) Actually practices medicine in this State; and

(c) Has not been specifically prohibited by the Board from acting as a supervising physician.

7. If the Board pursuant to NAC 630.410 has disciplined a physician assistant, a physician shall not supervise that physician assistant unless the physician has been specifically approved by the Board to act as the supervising physician of that physician assistant.

[Bd. of Medical Exam'rs, § 630.370, eff. 12-20-79]—(NAC A 6-23-86; 11-21-88; 9-12-91; 1-13-94; R149-97, 3-30-98; R108-01, 11-29-2001; R145-03, 12-16-2003)

NAC 630.360 Performance of authorized medical services; identification; misrepresentation; notification of change regarding supervising physician. (NRS 630.130, 630.275)

1. The medical services which a physician assistant is authorized to perform must be:

(a) Commensurate with his education, training, experience and level of competence; and

(b) Within the scope of the practice of his supervising physician.

SCOPE

2. The physician assistant shall wear at all times while on duty a placard, plate or insigne which identifies him as a physician assistant.

3. No physician assistant may represent himself in any manner which would tend to mislead the general public or the patients of the supervising physician.

4. A physician assistant shall notify the Board in writing within 72 hours after any change relating to his supervising physician.

[Bd. of Medical Exam'rs, § 630.360, eff. 12-20-79]—(NAC A 6-23-86; 9-12-91; 1-13-94; R149-97, 3-30-98; R108-01, 11-29-2001)

MEDICAL DIRECTOR AGREEMENT

This agreement dated January 23, 2020, between VIDA SPA LLC (business) with principal address 3225 S Rainbow. Blvd Suite 107 and Charmaine Porcii (Nurse practitioner) with principal address of 7285 Twin Maples Ct. Las Vegas, NV 89148 sets for that Nurse practitioner Independent contractor utilizing the facilities of business for the purpose of providing Medical Director services and medical spa care services.

TERMS

Business will collect 100% percent of fees collected for services rendered to patients to cover space rent, provision utilities, equipment use, staff (scheduling) and other overhead.

Business will set fees for services rendered. Nurse Practitioner will be the legally licensed medical director of record Business.

Nurse Practitioner will be compensated a $2500 salary until further notice is provided and agreed to in writing by both Business and Nurse practitioner.

Additional Compensation :

1. Nurse Practitioner may treat Business patients for BOTOX and be compensated for 30% of proceeds generated thereof.
2. Nurse Practitioner shall be compensated for 30 % of proceeds for fat transfer and liposuction procedures.
3. Nurse Practitioner shall be compensated for 30 % of proceeds of all other treatments that Nurse practitioner himself administers.

This agreement is in effect from the day of signing of this Agreement. Nurse Practitioner shall receive salary on the 1st day of March 2020 and shall be paid on the 1st day of each month thereafter until further notice is given in writing and agreed to by both Nurse Practitioner and Business. Either party may immediately terminate the agreement, given reasonable cause, as outlined below.

- A breach of ethical standards:
- Violation of the terms of this agreement: or
- Exposure by either party to liability because the other party has failed to abide by the requirements of this agreement. In addition, either party shall have the right to cancel the agreement by providing written notice to the other party at least thirty days prior to a proposed termination date.

Nurse Practitioner Will:

1. Provide proof of professional liability insurance in amounts of at least $2 million per incident and $3 million aggregate and compliance with all business licensing and regulatory requirements.
2. Be responsible for all local, state, and federal withholding taxes.
3. Maintain confidentiality of all client information.
4. Hold business harmless from any liability or economic loss arising from services provided under this agreement.

Business Will:

1. Provide use of the facility (including a safe, private treatment area), its utilities and its services, including treatment space, storage area, bathrooms, general cleaning service, receptionist, scheduling, and appointment confirmation.

2. Incorporate Nurse Practitioner's services within overall business marketing plans and promote those services.

The parties agree that any unresolved disputes about the terms or enforcement of this agreement shall be resolved through mediation. The non-prevailing party shall be responsible for paying all mediation costs, unless the mediatior finds partially for both parties, in which all the parties shall each be responsible for half the costs of mediation.

This constitutes the entire agreement between the parties and replaces any and all prior verbal or written agreements. Should any part of this agreement be considered unenforceable by a court of competent jurisdiction, the remainder of the agreement remains in force. This agreement is governed by the laws of the State of Nevada.

Nurse Practitioner Name Charmaine Porcii

Signature _____ Date 2/3/20

Business Owner name Gisselle Platfoot

Signature _____ Date 2/3/20

Witness Name _____

Signature _____ Date _____

Medical Director Agreement

This agreement dated May 9, 2019, between Vida Spa LLC (Business) with principal address of 3225 S. Rainbow Blvd. Suite 107 and Sherman Washington Jr. (Doctor) with principal address of 2900 North Green Valley Parkway #114, Henderson, NV 89104, sets forth that Doctor is an independent contractor utilizing the facilities of Business for the purpose of providing Medical Director services and medical spa care services.

Terms

Business will collect 100% percent of fees collected for services rendered to patients to cover space rent, provision of utilities, equipment use, staff (scheduling), and other overhead.

Business will set fees for services rendered. Doctor will be the legally licensed medical director of record for Business.

Doctor will be compensated a $2,500 salary for the first two months of this agreement and shall be compensated $3,000 salary starting on the third month of this Agreement until further notice is provided and agreed to in writing by both Business and Doctor.

Additional Compensation:

1. Doctor may treat Business patients for BOTOX and be compensated for 30% of proceeds generated thereof.
2. Doctor shall be compensated for 40% of proceeds for fat transfer and liposuction procedures.
3. Doctor shall be compensated for 30% of proceeds of all other treatments that Doctor himself administers.

This agreement is in effect from the day of signing of this Agreement. Doctor shall receive salary on the 20th day of May 2019 and shall be paid on the 20th day of each month thereafter until further notice is given in writing and agreed to by both Doctor and Business. Either party may immediately terminate the agreement, given reasonable cause, as outlined below:

- A breach of ethical standards;
- Violations of the terms of this agreement; or
- Exposure by either party to liability because the other party has failed to abide by the requirements of this agreement. In addition, either party shall have the right to cancel the agreement by providing written notice to the other party at least thirty days prior to a proposed termination date.

Doctor Will:

1. Provide proof of professional liability insurance in amounts of at least $2 million per incident and $3 million aggregate and compliance with all business licensing and regulatory requirements.
2. Be responsible for all local, state, and federal withholding taxes.
3. Maintain confidentiality of all client information.
4. Hold business harmless from any liability or economic loss arising from services provided under this agreement.

Business Will:

1. Provide use of the facility (including a safe, private treatment area), its utilities and its services, including treatment space, storage area, bathrooms, general cleaning service, receptionist, scheduling, and appointment confirmation.

2. Incorporate Doctor's services within overall business marketing plans and promote those services.

The parties agree that any unresolved disputes about the terms or enforcement of this agreement shall be resolved through mediation. The non-prevailing party shall be responsible for paying all mediation costs, unless the mediatior finds partially for both parties, in which all the parties shall each be responsible for half the costs of mediation.

This constitutes the entire agreement between the parties and replaces any and all prior verbal or written agreements. Should any part of this agreement be considered unenforceable by a court of competent jurisdiction, the remainder of the agreement remains in force. This agreement is governed by the laws of the State of Nevada.

Doctor Name Sherman Washington Jr

Signature _____ Date 9/9/19

Business Owner name Vazrik Makarian

Signature _____ Date 9/9/19

Witness Name Alexander McTarian, Esq

Signature _____ Date 9-9-19

Amendment to Medical Director Agreement

This Amendment to the Medical Director Agreement dated May 9, 2019, between Vida Spa LLC (Business) with principal address of 3225 S. Rainbow Blvd. Suite 107 and Sherman Washington Jr. (Doctor) with principal address of 2900 North Green Valley Parkway #114, Henderson, NV 89104, sets forth that Doctor is an independent contractor utilizing the facilities of Business for the purpose of providing Medical Director services and medical spa care services and will have the Agreement amended as follow:

Terms

Business will collect 100% percent of fees collected for services rendered to patients to cover space rent, provision of utilities, equipment use, staff (scheduling), and other overhead.

Business will set fees for services rendered. Doctor will be the legally licensed medical director of record for Business.

Doctor will be compensated a minimum $10,000 monthly salary, exclusive of the monthly director services fee or 40% of the fat transfer and liposuction procedures, whichever is greater, so long as Doctor conducts a minimum of 5 in-office liposuction or fat transfer procedures per month, otherwise, the original Agreement terms and conditions dated May 9, 2019 shall control.

The procedures shall only be performed at the above written address for Business. This Agreement shall remain in effect until further notice is provided and agreed to in writing by both Business and Doctor. Doctor shall provide a Vaser Lipo suction machine with fat transfer ability to be used at Business location(s) only. Doctor shall be responsible for the maintenance and upkeep of the machine and the machine shall be provided by the Doctor at his sole expense. Business shall compensate Doctor $150 (One Hundred Fifty Dollars) usage fee for every procedure that Business uses on client services whether by Doctor or certified personnel. The Vaser Lipo suction machine will be the machine that is detailed below in a snap-shot picture containing the serial # SN-PFM07-0817R1.

MEDICAL DIRECTOR AGREEMENT

For VIDA SPA, LLC.

MADE THIS 10th DAY OF OCTOBER 2018

EFFECTIVE DATE: OCTOBER 10, 2018

BY AND BETWEEN

VIDA SPA, LLC, of Clark County, Nevada, a Nevada Limited Liability Company (hereinafter referred to as the "Company").

AND

KIARASH MIRKIA, M.D. (hereinafter referred to as the "Medical Director").

WITNESSETH:

WHEREAS, the Company is organized for the purpose of operating, developing and managing a Medical Spa Center (the "Center"), as hereinafter defined, specializing in the treatment of Personal Aesthetic and Cosmetic procedures. The term "Center" shall mean the Vida Spa Medical Spa center located at 3225 South Rainbow Blvd, Suite 107, Las Vegas, NV 89146.

WHEREAS, the Medical Director is a physician Board certified in General Surgery and specializing in Critical and General Care and capable and desirous of providing medical direction of the Center; and

WHEREAS, the Company desires to have the Center under the medical direction of a medical director, who will perform services provided for in this Agreement; and

WHEREAS, the Company has selected the Medical Director to perform medical direction services at its Center as an independent contractor; and

WHEREAS, the Medical Director agrees to perform medical direction services at the Company's Centers under the terms of this Agreement

NOW, THEREFORE, in consideration of the mutual covenants herein contained and intending be legally bound hereby, the parties hereto agree as follows:

1. APPOINTMENT

The Company has approved the appointment of Kiarash Mirkia, M.D. as Medical Director for Vida Spa, LLC.

2. DUTIES OF MEDICAL DIRECTOR

The Medical Director shall serve as an independent contractor to the Company and shall oversee and supervise the clinical aspects of the Company and shall ensure compliance of the Center with the clinical doctrines of the Company. Additionally, the Medical Director shall perform all the administrative, supervisory and educational functions relative to the clinical components of the Company as required from time to time by the Company's Chief Executive Officer and Chief Operating Officer, including but not limited to the functions set forth on Exhibit A attached hereto and incorporated herein, all subject to the oversight and direction of the Board of the Company. The Medical Director shall not refer patients to the Center.

3. DUTIES OF COMPANY

The Company shall provide at its cost or expense all of the supplies, equipment and non-physician personnel required for the provision of services in the Center. The non-physician personnel will be recruited by and be subject to the personnel policies of the Company. The Company shall provide the necessary equipment and maintenance and facility services.

4. RELATIONSHIP OF THE PARTIES

The parties to this Agreement intend that the relationship between them be that of company and independent contractor. None of the benefits provided by the Company to its employees are available to the Medical Director. Medical Director agrees to be solely and entirely responsible for his acts and for the acts of his employees and agents, and for paying all applicable taxes required by law, such as payroll, income, withholding and social security taxes, and all applicable insurance required by law, such as workers compensation and unemployment insurance and the Medical Director will indemnify and hold the Company harmless from any and all loss or liability arising from his failure to make such payments, withholdings and benefits, if any. In the event the Internal Revenue Service or any other governmental agency should question or challenge the independent contractor status of the Medical Director, the Medical Director agrees to notify the Company immediately and cooperate and participate, if requested, in any discussion or negotiation occurring with such agency, regardless of with whom or by whom such discussions or negotiations are initiated. Medical Director shall ensure that all

of its employees, agents and independent contractors rendering services hereunder meet the obligations specified herein. The Medical Director, his employees and agents shall, at all times, exercise complete discretion and independent professional judgment in the performance of the professional services rendered hereunder. Upon the execution of this Agreement by the Center and the Medical Director, all previous Agreements between the parties regarding the subject matter hereof, if any, whether oral or written, shall be terminated.

5. COMPENSATION

(a) During the term of this Agreement, the Company shall pay the Medical Director, as the full amount due for all services provided pursuant to this Agreement; **Five Thousand Dollars ($5,000.00) per month, plus Fifty Percent (50%) of the gross revenue for each appropriately documented and completed procedure, where services are provided hereunder**. Medical Director specifically agrees and covenants that the compensation received by him under this Agreement shall satisfy and discharge in full all Medical Director's claims on the Company for compensation.

(b) If at any time, State or Federal law, rules or regulations make compensation unlawful, the Medical Director and Company shall meet, as soon as practical, to discuss an amendment to this Agreement regarding compensation or billing. In the event the parties are unable to agree to such modification within ten (10) days, either party may immediately terminate this Agreement.

(c) It is understood and agreed that the Company may withhold all or any part of the compensation owed to the Medical Director if the Medical Director fails to complete or document his duties pursuant to this Agreement.

6. INSURANCE OR PROFESSIONAL LIABILITY COVERAGE

Medical Director agrees to obtain and maintain, at his sole expense, during the term of this Agreement, professional liability insurance coverage for himself with minimum limits of coverage of Two Hundred and Fifty Thousand Dollars ($250,000) per claim and Seven Hundred and Fifty Thousand Dollars ($750,000) in the annual aggregate. The Medical Director shall provide Company copies of the current and valid certificates of professional liability insurance applicable to him at any time upon Company's request. The Medical Director further agrees to provide the Company with a copy of malpractice insurance certificate within thirty (30) days of the annual renewal of his insurance policy. In the event the policy of liability insurance applicable to him is written in a claims-made form, Medical Director agrees to maintain such insurance with the same liability carrier in the same amounts maintained hereunder for a period of four (4) years following the termination of this Agreement for any reason. Alternatively, Medical Director shall immediately purchase "tail coverage" in the amount of insurance required hereunder for a period of four (4) years following the expiration or termination of this Agreement for any reason. Medical Director agrees that Company, in its sole discretion, may withhold compensation payable hereunder to purchase such tail coverage on Medical Director's behalf.

7. ABSENCES

During the Medical Director's absence due to vacation, illness, professional education or ot absences, which prevents him from fulfilling his duties pursuant to this Agreement, the Medical Dire shall notify the Company chief executive officer of his absence.

8. CONTINUING PROFESSIONAL EDUCATION

The Medical Director shall attend continuing education programs so as to remain current with the advances in his field of expertise as it relates to services provided in the Center. The continuing education programs will be attended at the Medical Director's expense.

9. COMPLIANCE WITH PROFESSIONAL STANDARDS

The Medical Directory shall remain current with the advances in his field of expertise as it relates to services provided in the Center. The continuing education programs will be attended at the Medical Director's expense. The Medical Director agrees to perform all professional services hereunder in strict accordance with the prevailing standard of care in the relevant community.

10. CONFIDENTIALITY

The Medical Director shall notify the Company of any suspension of his license or certification involving him by the Nevada State Board of Medical Examiners, the Department of Health, Medicare, Medicaid or any professional organization of which the Medical Director is a member. Medical Director shall comply with, all federal, state, county and municipal laws, rules, ordinances and regulations applicable to the practice of medicine. The Medical Director shall not disclose information relating to any and all Company's operations, policies or procedures without the consent of the Company.

11. OBLIGATIONS OF MEDICAL DIRECTOR

The Medical Director shall meet his obligation to provide services under the (a) Meeting and continuing to meet the criteria established by the Company; (b) Complying with the rules and regulations, policies and directives of the (c) Complying with all applicable statutes, rules, regulations and standards of terms of this Agreement by: Company; any and all governmental authorities and regulatory and accreditation bodies relating to physicians, medical directors and hospitals, applicable to the provision of the Vida Spa center services; and 5 (d) Maintain his Medicare provider status during the term of this Agreement.

12. TERM

This Agreement shall be in force for an initial period of twelve (12) months. Thereafter, this Agreement shall automatically renew for successive periods of twelve (12) months, unless, without affecting the parties' ability to terminate this Agreement pursuant to any provision of this Agreement, either party provides the other party written notice of non-renewal at least thirty (30) days prior to the end of the then current twelve (12) month period.

13. TERMINATION

This Agreement may be terminated by agreement of the parties or by operation of law or as provided for elsewhere herein below, as follows:

A. Termination or Cause. This Agreement may be terminated immediately by the s used herein, "good and sufficient cause" shall mean Medical Director's: (i) being for "good and sufficient cause" as that phrase is defined below. A charged with commission of a felony; (ii) loss or suspension of his license to practice medicine in the State of Nevada ; (iii) failure, inability or refusal to perform as required of him under this Agreement or to comply with the material terms and conditions of this Agreement, for any reason other than his illness or physical or mental incapacity; (iv) in the event the Medical Director acts in such a manner involving self-dealing or which creates a conflict of interest or places him in a posture adverse to the best interests of the Company; (v) the Medical Director's permit or license to dispense or prescribe drugs or controlled substances in Nevada shall have been revoked, suspended or restricted; (vi) the Medical Director's right to participate in the Medicare and Medicaid programs shall have been revoked, suspended or restricted; (vii) the unlawful harassment by Medical Director, including sexual harassment, of any employee, agent or independent contractor of the Company; (viii) if the Medical Director breaches any provision of this Agreement and such breach is not cured within ten (10) days of the Company providing Medical Director written notice specifying the breach.

B. Termination Due To Disability. This Agreement may be terminated by the Company in the event Medical Director is unable for a continuous period of thirty (30) days or more to perform the services required of him by this Agreement by reason of his physical or mental disability, although during such thirty (30) day period Medical Director shall be compensated as provided in this Agreement.

C. Termination Due to Death. This Agreement shall be deemed to be terminated upon Medical Director's death.

D. Termination on Company's Bankruptcy. This Agreement may be automatically terminated, at Medical Director's option, upon notice to the Company if the Company shall apply for or consent to the appointment of a receiver, trustee or liquidator of all or a substantial part of its assets, file a voluntary petition in bankruptcy, admit in writing its inability to pay its debts as they become due, make a general assignment for the benefit of creditors, or take advantage of any insolvency law, or if an order, judgment or decree shall be entered by a court of competent jurisdiction, on the application of a creditor, adjudicating the Company a bankrupt or insolvent or approving a petition seeking reorganization of the Company, or appointing a receiver, trustee or liquidator of the Company or of all or a substantial part of its assets.

E. Sale of Assets. This Agreement may be terminated by either party in the event of a sale o substantially all of the assets of the Company under circumstances where the obligations of the Company under this Agreement are not assumed by the purchaser (or an affiliate thereof) and, wher Medical Director is not engaged by the purchaser (or an affiliate thereof) within thirty (30) days of the closing of such transaction, Medical Director shall be deemed to have been given immediate notice of termination.

F. Termination Without Cause. This Agreement may be terminated by either party at any time for any reason by providing the other party at least thirty (30) days written notice of termination.

14. WAIVER

A waiver of the breach of any covenant, agreement, term or condition of this Neither the failure nor any delay on the part of any party to exercise any right, Agreement by either party shall not constitute a waiver of any subsequent breach or breaches. remedy, power or privilege (hereinafter "Right") under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of the same or of any other Right, nor shall any waiver of any Right with respect to any other occurrence. No waiver shall be effective unless it is in writing and is signed by the party asserted to have granted such waiver.

15. COMPLIANCE

All applicable statutes, rules regulations and standards of any and all government authorities and regulatory and accreditation bodies relating to medical directors, physicians and hospitals, and to the provision of Vida Spa center services, shall be fully complied with by all parties hereto. Insofar as Sections 952 of P.L. 96-499 (42 U.S.C. 7 (a) until the expiration of five years (5) after the furnishing of such (b) if the Medical Director carries out any of the duties of this Agreement.

16. BILLING

Medical Director agrees that all fees, charges and income arising out of Medical Director's services on behalf of the Company during the term of this Agreement shall be and remain the property of the Company. Medical Director irrevocably assigns and transfers to the Company all right, title and interest of Medical Director to any fees, charges or income (whether in cash, accounts, goods or other property of value) resulting from or incident to Medical Director's practice of medicine pursuant to this Agreement and does hereby appoint the Company as Medical Director's exclusive agent and attorney-in-fact to bill and collect the same and to enforce Medical Director's interest therein. In the event patients pay their fees directly to the Medical Director, any amounts so collected shall be promptly paid over or endorsed by the necessary parties for deposit in bank accounts in the name of the Company. The Company shall not be liable to the Medical Director for: (i) the Company's decision made in good faith concerning billing and collection matters, (ii) any violation of law by Medical Director regarding billing or collection that arises as a result of Medical Director's actions or failures to act, or (iii) any economic impact of the actual inability to collect fees for services rendered. Moreover, Medical Director

appoints the Company or its designee as his exclusive agent and gives the Medical Director or its designee the exclusive right to negotiate and execute on his behalf all contracts providing payment for services with third party payment programs, health maintenance organizations, alternate health care delivery systems, insurers, employers and any other payers. Medical Director agrees not to participate in any such payment program or health care delivery plan without the prior written consent of the Company.

17. RECORDS AND REPORTS

All records pertaining to the provision of care of patients at the Center shall be the property of the Company and shall at all times be freely available for the use of the Medical Director, provided, however, that such records may not be removed from the Company without the Company's specific consent

18. NOTICES

Notices or communications required or permitted to be given under this Agreement shall be given to the respective parties in writing, by registered or certified mail, postage prepaid, (said notice being deemed given as of the date of mailing) or delivered personally to the addresses at the following addresses unless a party shall otherwise designate a change of address by notice to the other party.

19. S O A

The section headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. The recitations set forth at the beginning of this Agreement are incorporated as part of this Agreement as if fully set forth herein.

20. GOVERNING LAW/VENUE

This Agreement shall be construed and enforced in accordance with the laws of the State of Nevada, and venue for any action taken based on this Agreement shall lie in Clark County, Nevada.

21. ASSIGNMENT

No assignment of this Agreement or the right and obligations hereunder shall be valid without the specific written consent of both parties.

22. ENTIRE AGREEMENT

This Agreement supersedes all previous contracts or agreements between the parties with respect to the subject matter hereof, and constitutes the entire Agreement between the parties.

23. AMENDMENTS

This Agreement may be amended only by an instrument in writing signed in the manner provided in this Agreement, effective as the date stipulated therein.

24. INDEMNIFICATION

Medical Director agrees to indemnify and hold the Company harmless from and against any and all costs, losses, claims, demands and liabilities, including reasonable attorneys' fees and costs, which arise out of or relate to or are attributable to any and all acts and omissions by the Medical Director, including for any negligent or intentional act, any act or omission allegedly constituting professional negligence, and any act not authorized under the terms of this Agreement. Medical Director's duty to indemnify and hold the Company harmless shall include, but not be limited to, any cost, loss, claim, demand, denial or liability as a result of an overpayment claimed by any payer for services rendered pursuant to this Agreement or any other overpayments directly related to services ordered by the Medical Director. If the Company or any of its shareholders, parent corporations, subsidiaries or affiliates is made a party to any litigation or obligation or otherwise incurs any loss or expense as a result of Medical Director's activities described herein, Medical Director shall forthwith upon demand reimburse the Company for all expenses incurred as a result thereof. The parties agree, however, that to the extent such cost, loss, claim or demand is compensated for by a policy of insurance, the Medical Director shall not be obligated to indemnify the Company. Any amounts owed to the Company hereunder may be withheld by the Company from outstanding amounts due to the Medical Director and by them or their representatives as of the day and year first above written

25. EXECUTION

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed

VIDA SPA, LLC

Dated: Oct/11/2018

By: Gisselle Platfoot

Its: [illegible]

MEDICAL DIRECTOR

Dated: 10/11/2018

By: Kiarash Mirkia MD

Its: _____

FILED
NOV 23 2022
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

LEO P FLANGAS, ESQ.
Nevada Bar No. 5637
FLANGAS LAW FIRM, LTD.
600 S. Third Street
Las Vegas, Nevada 89101
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E-mail: leo@flangaslawfirm.com
Attorney for Defendant

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

In the Matter of Charges and Complaint Against: **MARYANN DEFOREST PHILLIPS, M.D., Defendant**	CASE NO.: 21-10032-1

THIRD AMENDED PREHEARING CONFERENCE STATEMENT OF EXHIBITS AND WITNESSES FROM DEFENDANT MARYANN DEFOREST PHILLIPS, M.D.

Defendant, Maryann Deforest Phillips, M.D., by and through her counsel of record, Leo P. Flangas, of Flangas Civil Law Firm, LTD, hereby submits the following Prehearing Conference Statement in accordance with NAC 630.465 and the Hearing Officer's Notice and Order Scheduling Pre-Hearing and Hearing, filed on March 4, 2022.

It has been agreed between the State and Defendant's counsel that the prehearing conference statement can be amended and revised prior to the next pre-arbitration conference to be set. The agreement is made based on the following reasons:

1. The State's desire to amend the complaint,
2. The fact that Defendant's counsel recently received 2,500 pages of discovery on June 30, 2022 and Defendant's counsel has not had adequate time to review the documents in order to fully determine a complete list of witnesses and exhibits.

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I. LIST OF WITNESSES

The Defendant lists the following witnesses whom they may call at the hearing and incorporates any and all witnesses listed by the Medical Board as though they were fully incorporated herein.

It has been agreed between the State and Defendant's counsel that the prehearing conference statement can be amended and revised prior to the next pre-arbitration conference.

A. Dr. Maryann Deforest Phillips, M.D.

Dr. Phillips is expected is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case.

B. Giselle Platfoot

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips.

C. Anna L. Solano, N.P.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

D. Hope Cruz, R.N.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and

responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

E. Charimain Poecii, N.P.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures. as well as their duties and obligations as medical director of Vida Spa.

F. Evelyn Rodrigues, N.P.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures. as well as their duties and obligations as medical director of Vida Spa.

G. Krystin Molina, R.N.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips.

The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

H. Tiana Hubbard, N.P.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

I. Danielle Leeds, R.N.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

J. Dr. Andrew Sheep, M.D.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures. as well as their duties and obligations as medical director of Vida Spa.

K. Dr. Kushal, N.P.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures. as well as their duties and obligations as medical director of Vida Spa.

L. Dr. Salvador Borromeo, M.D.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

M. Dr. Gabriel Serrano, M.D.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

N. Dr. Allen Miller

Dr. Miller is a Board-Certified Chiropractor and is licensed to practice in California,

Montana, and Colorado. Dr. Miller is expected to testify as to his experience with working with Dr. Phillips when she was retained as an expert by his company, Bio Nutra Ceutical Health Solutions.

O. Minou Nelson

Ms. Nelson is expected to testify to the requirements for, as well as the policy and procedures for unlicensed facilities being inspected by the Nevada Department of Health and Human Services.

P. Marjorie Belsky, M.D.

Ms. Belsky is a licensed medical practitioner in the state of Nevada. She is expected to testify as to the allegations contained in the Second Amended Complaint.

Q. Johna Rusch, Health Facilities Inspector II

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. Ms. Rusch will also testify to the facts and circumstances surrounding the formal inspection of Vida Spa in 2020 and 2021.

R. Jeffrey Caine, R.N., B.S.N, M.A., Health Facilities Inspector II

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. Mr. Caine is also expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to the inspection of Vida Spa in 2020 and 2021.

A. The Second Amended Complaint was received by this office on September 20, 2022. As

such additional witnesses may be identified and supplemented at a later date.

B. Defendant reserves the right and intends call all witnesses identified and used by the State.

II. LIST OF EXHIBITS

The Defendant lists the following exhibits that they may introduce at the hearing on the charges and formal complaint against them. Additionally, Defendant reserves the right to present all exhibits listed in the Medical Board's prehearing conference statement and any supplement and/or amendment thereof.

It has been agreed between the State and Defendant's counsel that the prehearing conference statement can be amended and revised prior to the next pre-arbitration conference.

Exhibit Number	Description	Bates Range
A	Business cards for Johna Rusch and Jeffrey Caine from the State of Nevada Department of Health and Human Services	PHILLIPS 000001
B	Cannula Photos	PHILLIPS 000002 to PHILLIPS 000003
C	Vida Spa Consent for Surgery and Procedures	PHILLIPS 000004
D	Vida Spa Consent to Surgery and Procedures (Spanish)	PHILLIPS 000005
E	Fire Marshall Certificate	PHILLIPS 000006
F	Nevada Business License Details and Entity Name Change for Vida Spa	PHILLIPS 000007 to PHILLIPS 000010
G	Diagram of Layout of Vida Spa	PHILLIPS 000011 to PHILLIPS 000014
H	Outpatient Facility Tour Checklist	PHILLIPS 000015 – PHILLIPS 000016
I	Emails Regarding the Outpatient Facility Investigation of Vida Spa	PHILLIPS 000017 – PHILLIPS 000035
J	Emails and Documents from Gisselle Platfoot Regarding the Licensing Application of Vida Spa	PHILLIPS 000036 – PHILLIPS 000102

K	Vida Spa Employee Handbook and Contract for Medical Director	PHILLIPS 000103 – PHILLIPS 000116
L	Vida Spa Medical Director Agreement with Dr. Salvador Borromeo	PHILLIPS 000117 – PHILLIPS 000121
M	Vida Spa Medical Director Agreement with Charmaine Porcii	PHILLIPS 000122 – PHILLIPS 000123
N	Vida Spa Medical Director Agreement with Dr. Sherman Washington Jr.	PHILLIPS 000124 – PHILLIPS 000127
O	Vida Spa Medical Director Agreement with Kiarash Mirkia M.D.	PHILLIPS 000128 – PHILLIPS 000135
P.	**Curriculum Vitae and Resume of Ms. Belsky**	**PHILLIPS 000136 – PHILLIPS 000152**
Q.	**Photos of Ms. Chavez Procedure**	**PHILLIPS 000153 – PHILLIPS 000170**

The Second Amended Complaint was received by this office on September 20, 2022. As such additional exhibits may be identified and supplemented at a later date.

Defendant reserves the right and intends to use any exhibits relied upon or identified by the Medical Board and reserves the right to supplement this list of exhibits as required.

Dated this 18th day of November, 2022.

/s/ Leo P. Flangas
LEO P FLANGAS, ESQ.
Nevada Bar No. 5637
FLANGAS LAW FIRM, LTD.
600 S. Third Street
Las Vegas, Nevada 89101
Telephone: (702) 384-1990
Facsimile: (702) 384-1009
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of November, 2022, service of the foregoing document was made by submission via email and USPS Certified Mail to the following parties:

NEVADA STATE BOARD OF MEDICAL EXAMINERS
Attn: Don White
325 E. Warm Springs Road, Suite 225
Las Vegas, NV 89119
Email: dwhite@medboard.nv.gov

Dated this 18th day of November, 2022.

/s/ Ami Rebecca Meyers
An employee of Flangas Civil Law Firm

Marjorie Belsky, M.D.

702-501-3129

Business Address:	6125 W. Sahara Avenue Las Vegas, NV 89146
Specialty:	**Interventional Pain Management**
Medical License:	Nevada License
Residency:	**University of California, San Francisco Medical Center** San Francisco, CA, July 2004 *Pain Management Fellowship* **University of California, Irvine Medical Center** Orange, CA, June 2003 *Anesthesiology Residency* **Jersey Shore Medical Center** Neptune, NJ, June 2000 *Preliminary Medicine Residency*
Post Grad Education:	**University of New Hampshire School of Law** **Focus on IP and Healthcare (data and drug law)** Concord, NH Class of 2023 **Technion-Israel Institute of Technology** Haifa, Israel, June 1999 *Degree: Doctor of Medicine* Faculty of Medicine **Touro College School of Health Sciences** Dix Hills, NY, September 1995 *Degree: Master of Arts* Interdisciplinary Biological and Physical Sciences
Undergraduate Education:	**Emory University** Atlanta, GA, May 1993 *Degree: Bachelor of Science* Biology & Art History; Minor is Studio Art

Professional Certifications:

Nevada State Board of Medical Examiners

American Board of Anesthesiology Certification Pain Medicine – September 2006
Recertification – October 2015

Professional Memberships:

American Society of Interventional Pain Physicians
Active Member

American Board of Anesthesiology
Active Member

Physicians for Patient Protection
Active Member

American Medical Association
Active Member

Becker's Hospital Review
Reviewer 2019
Speaker Panelist for 2020, 2021

Professional Experience:

MICOE Ambulatory Surgery Center
Co-Owner, CEO
Las Vegas, NV 2012 - 2022

Integrated Pain Specialists
Private Practice
Las Vegas, NV 2006 – Present

Desert Sunset Pain Consultants
Las Vegas, NV
Per Diem, 2016

Kaiser Permanente
Interventional Pain
Panorama City, CA 2005

Phoenix Pain Medicine
Interventional Pain Management Group
Beverly Hills, CA 2004

Studio M Laser and Cosmetic Clinic

Owner and Operator, 2004 – 2005

Rollins Research Center
Pharmacology Laboratory Technician
Emory University, 1991 – 1992
Atlanta, Georgia

Centers for Disease Control
Atlanta, Georgia
Polymerase Laboratory, 1990-1991

Research Experience:

Plasma Disc Decompression: A Minimally Invasive Disc Decompression Study
Authors: William Muir, M.D.; Marjorie Belsky, M.D.; Mario Tarquino, M.D.; Jeffrey Muir, M.D.; Mayo Clinic, MN

Color Coded Duplex Ultrasound Compared to CT Angiography on the Detection of Carotid Artery Stenosis
Advisor: Diana Giatinni, M.D.; Department of Diagnostic Radiology, Rambam Medical Center, Haifa, Israel, 1997

Master's Thesis: *The Physiological Effects of Sarin Nerve Gas,* Touro College School of Health Sciences, Dix Hills, NY 1995

Research Assistant: *Incidence of Chlamydia Pharyngitis Outbreaks and Identification of Strains Contributing to Virulence*

Presentations:

Presentation: *Managing Your ASC During COVID19*
Becker's Healthcare
Becker's ASC 27th Annual Meeting: The Business and Operations of ASCs
Chicago, IL, October 2020 and October 2021

Presentation: *Managing Your ASC During COVID19*
Becker's Healthcare
Virtual Meeting
June 2020

Presentation: *Plasma Disc Decompression: A Minimally Invasive Decompression Study*

International Spine Intervention Society
18th Annual Scientific Meeting
Wailea, Maui, Hawaii, July 2010

Presentation: *Plasma Disc Decompression: A Minimally Invasive Decompression Study*
American College of Spine Surgery
Contemporary Concepts in Spine Surgery
Newport Beach, CA, June 2010

Presentation: *Plasma Disc Decompression: A Minimally Invasive Decompression Study*
Pain Week National Conference at Red Rock
Las Vegas, NV, August 2009

Grand Rounds UCSF
Intrathecal Delivery Pumps – Implantation and Clinical Application, January 2004

Presentation: *Exacerbation of Myasthenic Disease Post-Thymectomy*
Western Anesthesiology Residents Conference
San Diego, CA, May 2000 and
Post Graduate Anesthesiology Conference
New York, NY, December 2001

Lecture: *The Brain Breathing Circuit*
American Society of Anesthesiologists Conference
New Orleans, LA, October 2001

Lecture: *Color Coded Duplex Ultrasound Compared to CT Angiography on the Detection of Carotid Artery* Stenosis Annual Radiology Conference of Israel, November 1998

Papers: On SSRN. "*The Scarlet Letter***.** How blockchain can work to protect your healthcare data. 2021

MARJORIE E. BELSKY, M.D.

9333 W. Sunset Road, Suite A
Las Vegas, NV 89148

TRIAL APPEARANCES

Lori Kolbert vs. Michael Perry, New-Com Inc. et al — July 7, 2009
Clark County District Court, Case No: 07A535322
Department 10, Honorable Jessie Walsh
Plaintiff Attorney: Joseph Benson
Defense Attorney: Michael Hall
For plaintiff

Amber Hager vs. Renee Olis — July 19, 2010
Clark County District Court, Case No: 08A570596
Department 4, Honorable Kathy Hardcastle
Plaintiff Attorney: Brian Nettles
Defense Attorney: James Smedley
For plaintiff

Shalaya Wilson vs. Dennis Harkey — September 1, 2010
Clark County District Court, Case No: 08A569772
Department 22, Honorable Susan Johnson
Plaintiff Attorney: Roger Cram
Defense Attorney: Michael Hall
For plaintiff

Alexa Wagaska, Debra Daniel Sacha Mitchell (MINOR) vs. Suzanne Miller, Brad Miller
Clark County District Court, Case No: 08A570596 — May 31, 2010
Department 4, Honorable Kathy Hardcastle
Plaintiff Attorney: Roger Steggerda
Defense Attorney: Thomas Winner
For defense

Lee Klein, Aaron Sweet vs. Karen Biddle, Margie Biddle January 12, 2012

Clark County District Court, Case No: A-10-614051-C
Department 1, Honorable Kenneth Cory
Plaintiff Attorney: R. Todd Terry
Defense Attorney: Cecilia Ventimiglia
For plaintiff

Eugene Moseng vs. Kennethy White, Ace Cab Inc. April 24, 2012

Clark County District Court, Case No: 08A565578
Department 16, Honorable Timothy Williams
Plaintiff Attorney: Jason Maier
Defense Attorney: Kurt Lambeth
For plaintiff

Monica Gomez vs. Alejandro Barrera-Mejia & Does 1-10 February 13, 2013

Clark County District Court, Case No: A643135
Department 20, Honorable Judge Tao
Plaintiff Attorney: Matthew Vannah
Defense Attorney: Yianna Reizakis
For defense, appeal and settled

Ricardo Acosta (Short Trial) January 14, 2014

Clark County District Court, Case No: A-11-636746-C
Department 6, Honorable Harry Marquee
Plaintiff Attorney: Ralph Schwartz
Defense Attorney: Craig Anderson
For Plaintiff

Barbara Bordeaux Trial October 9, 2014

Clark County District Court, Case No: A-13-686031-C
Department 30, Honorable Jerry Wiese
Plaintiff Attorney: Vannah & Vannah
Defense Attorney: Hall, Jaffe & Clayton
For defense

James H. Westbrook vs. Aaron J. Jacobson July 27, 2015

Clark County District Court, Case No: A-13-683-999-C
Department 26, Honorable Gloria Sturman
Plaintiff Attorney: Dennis Prince
Defense Attorney: Gordon Park
For plaintiff

Tina So vs. Ruben Angel Colon-Cruz, et al. February 24, 2016

Clark County District Court, Case No: A-14-696533-C
Department 17, Honorable Michael Villani
Plaintiff Attorney: Ka H. Leung
Defense Attorney: Boone Cragun
For defense

Oscar Gatez vs. Amber Harley October 26, 2016

Clark County District Court, Case No: A-14-695043-C
Department 28, Honorable Ronald J. Israel
Plaintiff Attorney: Michael Hamilton
Defense Attorney: George Ranalli
For defense

Rebecca Dana vs. Frank and Kady Casuallo March, 2016

Clark County District Court, Case No: A-13-678142-C
Department 28, Honorable Ronald J. Israel
Plaintiff Attorney: Imanuel B. Arin
Defense Attorney: Thomas E. Winner
For defense

Jun Il Hong vs. David Brooks, Westco Trucking LLC February 22, 2019

Clark County District Court, Case No: A-16-744332-C
Department 4, Honorable Kerry Earley
Plaintiff Attorney: David Churchill
Defense Attorney: Trevor Atkin
For plaintiff

MARJORIE E. BELSKY, M.D.

DEPOSITION LIST

2010

1. 01/19/2010, Deposition for Luz Rangel, 8:00 a.m.
2. 02/02/2010, Deposition for Leo Archambault, 8:00 a.m.
3. 02/23/2010, Deposition for Lovato, 8:00 a.m.
4. 03/09/2010, Deposition for Trial, 3:00 p.m.
5. 03/16/2010, Deposition for Lee Norwood, 8:00 a.m.
6. 03/23/2010, Deposition for Hector Ruiz-Gurenna, 8:00 a.m.
7. 04/20/2010, Deposition for James Daniel, 8:00 a.m.
8. 04/27/2010, Deposition for Michael Mova, 8:30 a.m.
9. 05/04/2010, Deposition for Isabel Gonzalez, 8:30 a.m.
10. 05/25/2010, Deposition for Daniel Chavez, 8:30 A.M.
11. 06/01/2010, Deposition for Rita Pacheco, 8:00 a.m.
12. 06/22/2010, Deposition for Stephen Van Herrevelt, 8:00 a.m.
13. 06/29/2010, Deposition for May Ilano, 8:00 a.m.
14. 07/06/2010, Deposition for Ray Llamas, 9:00 a.m.
15. 07/13/2010, Deposition for Rosemary Hutchinson, 8:30 a.m.
16. 07/20/2010, Deposition for Josh Harris, 8:00 a.m.
17. 07/20/2010, Deposition for Jason White, 8:30 a.m.
18. 07/27/2010, Deposition for Anthony Jones, 8:30 a.m.
19. 08/10/2010, Deposition for Alan Moceo, 8:00 a.m.
20. 08/24/2010, Deposition for Sacha Mitchell, 8:00 a.m.
21. 08/31/2010, Deposition for Doreen Hober, 8:30 a.m.
22. 09/14/2010, Deposition for Jodi Drexel, 8:00 a.m.
23. 11/26/2010, Deposition for Billie Joann Gonzalez, 8:00 a.m.
24. 11/23/2010, Deposition for Janet McClendon, 8:00 a.m.

2011

1. 02/08/2011, Deposition for Caridad Abreu, 3:00 p.m.
2. 02/15/2011, Deposition for Tina Athow, 3:00 p.m.

3. 02/22/2011, Deposition for Cherie Dubois, 3:00 p.m.
4. 03/01/2011, Deposition for Ruby Arroyo, 3:00 p.m.
5. 03/08/2011, Deposition for Marcy Mason, 3:00 p.m.
6. 03/15/2011, Deposition for Manuela Rodriguez, 3:00 p.m.
7. 03/22/2011, Deposition for Pamela Ashley, 2:00 p.m.
8. 03/29/2011, Deposition for William Pruitt, 3:00 p.m.
9. 04/05/2011, Deposition for Akilah Andrades, 3:00 p.m.
10. 04/26/2011, Deposition for Ray Gallo, 3:00 p.m.
11. 05/10/2011, Deposition for Horst Pikuhust, 3:00 p.m.
12. 05/24/2011, Deposition for Bobby Combs, 3:00 p.m.
13. 05/31/2011, Deposition for Lanie Bennet, 3:00 p.m.
14. 06/28/2011, Deposition for Khajeta Pompa, 3:00 p.m.
15. 07/20, 2011, Deposition for Trisha Galang, 4:00 p.m.
16. 08/16/2011, Deposition for Dixie McMehan, 3:00 p.m.
17. 12/06/2011, Deposition for Tegan Jennings, 3:00 p.m.
18. 12/28/2011, Deposition for Helen Carpenter, 3:00 p.m.

2012

1. 01/10/2012, Deposition for Zachary Manibusan, 3:00 p.m.
2. 01/17/2012, Deposition for Vincent Sullenberger, 10:00 a.m.
3. 01/24/2012, Deposition for Robertta Nassar, 2:30 p.m.
4. 02/07/2012, Deposition for Sabrina Langford, 11:00 a.m.
5. 02/21/2012, Deposition for John Crowley, 10:00 a.m.
6. 03/06/2012, Deposition for Michelle Hawley, 2:30 p.m.
7. 03/13/2012, Deposition for Monica Benway, 10:00 a.m.
8. 04/03/2012, Deposition for Yesina Acre, 1:00 p.m.
9. 04/24/2012, Trial for Eugenen Moseng
10. 05/01/2012, Deposition for Chad Tuttle, 10:00 a.m.
11. 06/19/2012, Deposition for Chantel Godines, 10:00 a.m.
12. 07/24/2012, Deposition for Robert Lusk, 2:00 p.m.
13. 07/31/2012, Deposition for Maria Juarez, 2:00 p.m.
14. 08/07/2012, Deposition for S. Sill, 10:00 a.m.
15. 09/25/2012, Deposition for Gardner, 12:00 p.m.
16. 10/09/2012 Deposition for Frazier, 10:00 a.m.
17. 10/23/2012, Deposition for Augustina Gonzalez, 8:30 a.m.
18. 10/30/2012, Deposition for Brenda Karatas, 10:00 a.m.

19. 11/06/2012, Deposition for Brian J. Clark, 9:00 a.m.
20. 11/06/2012, Deposition for Diane Cohen, 2:00 p.m.
21. 11/13/2012, Deposition for Brian Shehan, 1:30 p.m.
22. 11/27/2012, Deposition for Willie Winds, 9:00 a.m.
23. 11/27/2012, Deposition for Margaret Seastrand, 10:00 a.m.
24. 12/04/2012, Deposition for Leona T. Dixon-Spaan, 10:00 a.m.
25. 12/11/2012, Deposition for Wayne Hayes, 11:00 a.m.
26. 12/18/2012, Deposition for Deborah D'Amico, 9:00 a.m.

2013

1. 01/15/2013, Deposition for Caralina Armburo-Lizarro, 9:00 a.m.
2. 01/22/2013, Deposition for Brittany Spurlock, 9:00 a.m.
3. 01/22/2013, Deposition for Rosena Pipitone, 10:00 a.m.
4. 01/29/2013, Deposition for Donald Pierce Wilson, 9:00 a.m.
5. 01/29/2013, Deposition for Gerald Kirt, 10:00 a.m.
6. 02/05/2013, Deposition for Sierra Snyder, 9:00 a.m.
7. 02/12/2013, Deposition for Monica Gomez, 1:30 p.m.
8. 02/26/2013, Deposition for Robel Begashaw, 10:00 a.m.
9. 03/05/2013, Deposition for Gerald Kirt, 9:00 a.m.
10. 03/12/2013, Deposition for Albert Haas, 9:00 a.m.
11. 03/19/2013, Deposition for Augustina Gonzalez, 9:00 a.m.
12. 04/09/2013, Deposition for Dawn and Jessica Beavers, 9:00 a.m.
13. 04/16/2013, Deposition for Geniva Martinez
14. 04/30/2013, Deposition for Margaret Seastrand, 9:00 a.m.
15. 04/30/2013, Deposition for Manuela Hernandez, 10:00 a.m.
16. 06/04/2013, Deposition for Sharon McDowell, 9:00 a.m.
17. 06/18/2013, Deposition for Juan Sainz, 10:00 a.m.
18. 06/25/2013, Deposition for Lilia Alcaraz, 9:00 a.m.
19. 07/30/2013, Deposition for Jon Halter, 10:00 a.m.
20. 08/06/2013, Deposition for Robert Lombard, 9:00 a.m.
21. 08/06/2013, Deposition for Blanca Velasquez, 10:00 a.m.
22. 08/13/2013, Deposition for Teresita Sanchez, 9:00 a.m.
23. 09/10/2013, Deposition for Redecel Teran Hernandez, 9:00 a.m.
24. 09/10/2013, Deposition for Dante Burnwell, 10:30 a.m.
25. 09/17/2013, Deposition for Maria Teran, 9:00 a.m.
26. 09/17/2013, Deposition for David Markall, 10:00 a.m.

27. 09/24/2013, Deposition for Amisha Kent, 9:00 a.m.
28. 09/24/2014, Deposition for Caitlin Mcallister, 10:00 a.m.
29. 10/01/2013, Deposition for Martha Burdick, 9:00 a.m.
30. 10/01/2013, Deposition for Patricia Mccourt, 10:00 a.m.
31. 10/08/2013, Deposition for Barbara Dekeado, 9:00 a.m.
32. 10/15/2013, Video Deposition for Artemio Nava, 9:00 a.m.
33. 10/22/2013, Deposition for Luis Padilla, 9:00 a.m.
34. 10/22/2013, Deposition for Nicole Weikle, 10:00 a.m.
35. 10/29/2013, Deposition for Rob Molina, 9:00 a.m.
36. 11/05/2013, Deposition for Reydecel Teran Hernandez, 9:00 a.m.
37. 11/05/2013, Deposition for Katrina Hancock, 10:00 a.m.
38. 11/12/2013, Deposition for Blanca Velazquez-Ramirez, 9:00 a.m.
39. 11/12/2013, Deposition for Breonca Casey, 10:00 a.m.
40. 11/19/2013, Deposition for Patricia Brown, 9:00 a.m.
41. 11/26/2013, Deposition for Blanca Velazquez Ramirez, 10:00 a.m.
42. 12/03/2013, Deposition for Vivian Anderson, 9:00 a.m.
43. 12/03/2013, Deposition for Marilyn Mitchell, 10:00 a.m.
44. 12/03/2013, Deposition for Breonca Casey, 11:00 a.m.
45. 12/17/2013, Deposition for Tou Lee, 9:00 a.m.

2014

1. 01/14/2014, Deposition for Christopher Rocha, 10:00 a.m.
2. 01/21/2014, Deposition for Tou Lee, 9:00 a.m.
3. 01/21/2014, Deposition for Blanca Velasquez Ramirez, 11:00 a.m.
4. 01/28/2014, Deposition for Paulette Kimura-Shimabukuro, 10:00 a.m.
5. 02/11/2014, Deposition for Stephanie Macklin, 9:00 a.m.
6. 02/11/2014, Deposition for Maria Rodriguez, 10:00 a.m.
7. 02/18/2014, Deposition for Robert Barnes, 9:00 a.m.
8. 02/25/2014, Deposition for Christopher Johnson, 10:00 a.m.
9. 03/04/2014, Deposition for Kelly Ann Combs, 11:00 a.m.
10. 03/11/2014, Deposition for Stephanie Macklin, 9:00 a.m.
11. 03/11/2014, Deposition for Ashley Casillas, 10:00 a.m.
12. 03/25/2014, Deposition for David Figueroa, 9:00 a.m.
13. 04/01/2014, Deposition for Ladarus Smith, 10:00 a.m.
14. 04/08/2014, Deposition for Stephanie Macklin, 10:00 a.m.
15. 04/29/2014, Deposition for Laurie Todd, 10:00 a.m.
16. 05/20/2014, Deposition for Kenny Staten, 10:00 a.m.

17. 06/03/2014, Deposition for Andre Coleman, 9:00 a.m.
18. 06/24/2014, Deposition for Devra Haney-Williams, 10:00 a.m.
19. 07/01/2014, Deposition for Kayla Carr, 9:00 a.m.
20. 07/08/2014, Deposition for Zoila Kaniaupio, 9:00 a.m.
21. 07/29/2014, Deposition for John Dibetta, 9:00 a.m.
22. 08/19/2014, Deposition for Carmelo Enspinosa-Rojas, 9:00 a.m.
23. 08/26/2014, Deposition for Natsuko Richardson, 9:00 a.m.
24. 08/26/2014, Deposition for Silvia Ruelas, 10:00 a.m.
25. 09/09/2014, Deposition for Robert Gallardo, 8:30 a.m.
26. 09/09/2014 Deposition for Cecilia Nungaray-Perez, 9:30 a.m.
27. 09/16/2014, Deposition for Roberto Diaz, 9:00 a.m.
28. 09/30/2014, Deposition for Nicola Cozier, 9:00 a.m.
29. 10/07/2014, Deposition for Andres Castillo-Martinez, 9:00 a.m.
30. 10/21/2014, Deposition for Jovita Baldomar, 9:00 a.m.
31. 10/21/2014, Deposition for Ja.m.es Westbrook, 10:00 a.m.
32. 11/04/2014 Deposition for Patrick Keller, 9:00 A.M.
33. 11/10/2014 Deposition for Guillermina Reveles, 10:00 a.m.
34. 11/18/2014 Deposition for Elido Rocha, 9:00 a.m.
35. 12/09/2014 Deposition for Angelo Micheal, 7:30 a.m.
36. 12/09/2014 Deposition for Maria Ibarra, 8:30 a.m.

2015

1. 01/13/2015, Deposition for Clarence Cutting, 8:00 a.m.
2. 01/13/2015, Deposition for Maritza Betello, 9:00 a.m.
3. 01/26/2015, Deposition for Mark Fleshman, 8:00 a.m.
4. 02/03/2015, Deposition for Cory Workman, 8:00 a.m.
5. 02/10/2015, Deposition for Rebecca Dana, 8:00 a.m.
6. 02/24/2015, Deposition for Carlos Rodriquez-Rafael 9:00 a.m.
7. 03/03/2015, Deposition for Suzanne Johnson, 8:30 a.m.
8. 03/10/2015, Deposition for Mario Lpez-Resenda, 8:30 a.m.
9. 03/10/2015, Deposition for David Diaz Anaya, 9:30 a.m.
10. 03/17/2015, Deposition for Hae Chong, 9:00 a.m.
11. 03/23/2015, Video Deposition for Carmela Damasco, 7:30 a.m.
12. 04/13/2015, Video Deposition for Albino Torres, 8:30 a.m.
13. 04/14/2015, Deposition for Kristen Morris, 9:00 a.m.
14. 04/20/2015, Deposition for Jose Caballos Herrera, 8:00 a.m.

15. 04/27/2015, Deposition for Jorge Topete-Lopez, 9:00 a.m.
16. 04/28/2015, Deposition for Shannon Ireland, 8:00 a.m.
17. 05/04/2015, Deposition for Rabih Hamdan, 8:00 a.m.
18. 05/04/2015, Deposition for Brian Johnson, 9:00 a.m.
19. 05/05/2015, Deposition for Christina Johnson, 8:00 a.m.
20. 06/29/2015, Deposition for Sue Kennedy, 8:00 a.m.
21. 07/06/2015, Deposition for Treta Pavon, 8:00 a.m.
22. 07/06/2015, Deposition for Geina Chavira-Silet, 9:00 a.m.
23. 07/07/2015, Deposition for Susana Villegas-Quintana, 8:00 a.m.
24. 09/08/2015, Deposition for Afshin Tadayon, 7:00 a.m.
25. 09/21/2015, Deposition for Ariana Maskunas, 7:30 a.m.
26. 09/22/2015, Deposition for Randy Weaver, 8:00 a.m.
27. 09/28/2015, Deposition for Josefina Lopez-Bautista, 7:00 a.m.
28. 09/29/2015, Deposition for Sam Boyd, 7:00 a.m.
29. 10/05/2015, Deposition for Yolanda Leal, 7:30 a.m.
30. 10/06/2015, Deposition for Terry Malan, 7:00 a.m.
31. 10/19/2015, Deposition for Bradley Fischer, 7:00 a.m.
32. 10/20/2015, Deposition for Roderick Wise, 7:30 a.m.
33. 11/02/2015, Deposition for Rosacruz Barillas, 7:30 a.m.
34. 11/09/2015, Deposition for Celeste Cahill, 7:00 a.m.
35. 11/09/2015, Video Deposition for Shukrije Muja, 8:00 a.m.
36. 11/23/2015, Deposition for Daniel Cade, 7:00 a.m.
37. 11/23/2015, Deposition for Alma Cordova-Garcia, 8:00 a.m.
38. 12/14/2016, Deposition for Oscar Flores, 7:00 a.m.
39. 12/14/2016, Deposition for Abel Sosa-Pitalua, 8:00 a.m.

2016

1. 1/11/16, Deposition for Jaime Claros Aguilar, 7:00 a.m.
2. 01/11/2016, Deposition for Debra Green, 8:00 a.m.
3. 02/01/2016, Deposition for Caroline Oliveira Da Silva, 7:00 a.m.
4. 02/08/2016, Deposition for Jamie Harrison, 7:00 a.m.
5. 03/07/2016, Deposition for Kirk Kindle, 8:00 a.m.
6. 03/14/2016, Deposition for Fanuel Lopez-Olivas, 7:00 a.m
7. 03/14/2016, Deposition for Spring Hebler, 8:00 a.m.
8. 03/21/2016, Deposition for Oscar Gatez, 7:00 a.m.
9. 04/11/2016, Deposition for Alma Corona, 7:00 a.m.
10. 04/11/2016, Deposition for Angelica Padilla, 8:00 a.m.

11. 04/18/2016, Deposition for Bertha Pelayo-Morales, 7:00 a.m.
12. 04/18/2016, Deposition for Leslie Pelayo-Morales, 8:00 a.m.
13. 04/23/2016, Deposition for Lisa Williams, 7:00 a.m.
14. 04/23/2016, Deposition for Joshua Taylor, 8:00 a.m.
15. 05/16/2016, Deposition for Orlando Diaz, 7:00 a.m.
16. 08/01/2016, Deposition for Marjorie Morales, 7:00 a.m.
17. 08/01/2016, Deposition for Jason Sotomayor, 8:00 a.m.
18. 10/05/2016, Deposition for Esperanza Dominguez-Cruz, 7:30 a.m.
19. 11/15/2016, Deposition for Madelin Truebas, 7:00 a.m.
20. 12/07/2016, Deposition for Andres Galindo, 7:30 a.m.

2017

1. 1/11/2017, Continued Deposition for Madelin Truebas, 7:30 a.m.
2. 04/18/2017, Deposition for Steven Alvarez, 7:00 a.m.
3. 04/25/2017, Deposition for Brandon Yates, 7:00 a.m.
4. 05/09/2017, Deposition for Timothy Boytor, 7:00 a.m.
5. 05/09/2017, Deposition for Jose Navarette-Serrano, 8:00 a.m.
6. 08/22/2017, Deposition for Kenya Zimmerman, 7:00 a.m.
7. 10/04/2017, Deposition for Rocco Avelini, 7:00 a.m.
8. 10/10/2017, Deposition for Nicolas Fernandez, 7:00 a.m.
9. 10/11/2017, Deposition for Michelle Luxtrum, 9:00 a.m.
10. 11/08/2017, Deposition of Amy Reynolds, 8:00 a.m.
11. 11/08/2017, Deposition of Carlos Chavez-Belmonte, 9:00 a.m.

2018

1. 2/14/18, Deposition for Forina Chavez-Lomeli, 10:00 a.m.
2. 2/14/18, Deposition for Deborah Dube, 11:00 a.m.
3. 4/18/18, Deposition for Linda Gallego, 7:00 a.m.
4. 4/18/18, Deposition for Amanda Rasavage, 8:00 a.m.
5. 6/27/18, Deposition for Henry Lujan, 7:00 a.m.
6. 6/27/18, Deposition for Tamara Pierce, 8:00 a.m.
7. 9/20/18, Video Deposition for Brenda Thompson, 9:00 a.m.
8. 11/6/18, Video Deposition for Jose Torres, 10:00 a.m.

2019

1. 3/5/19, Deposition for Brenda Thompson (Part 2), 9:00 a.m.
2. 11/29/19, Deposition for Richard Greene, 8:30 a.m.

MARJORIE E. BELSKY, M.D.

DEFENSE REPORTS

2007	Nevada BME
2019	United States of America vs. Michael Moran, MD- pending trial

MARJORIE E. BELSKY, M.D.

PLAINTIFF REPORTS

02/13/2014 Omar Jones

01/15/2015 Ludivina Garcia

02/17/2015 Ludivina Garcia - Rebuttal

03/15/2015 Venus Bobadilla

03/20/2015 Floremliza Montano

04/08/2015 Ariana Maskunas

04/09/2015 Ellie Brock

05/03/2015 Ariana Maskunas - Supplemental

06/15/2015 Tina So

03/07/2016 Mario Valladares

04/08/2016 Marc McMahan

02/28/2017 Jessica Kunkel

10/15/2018 Lorena Reyes-Decorral

12/31/2018 Lorena Reyes-Decorral - Supplemental

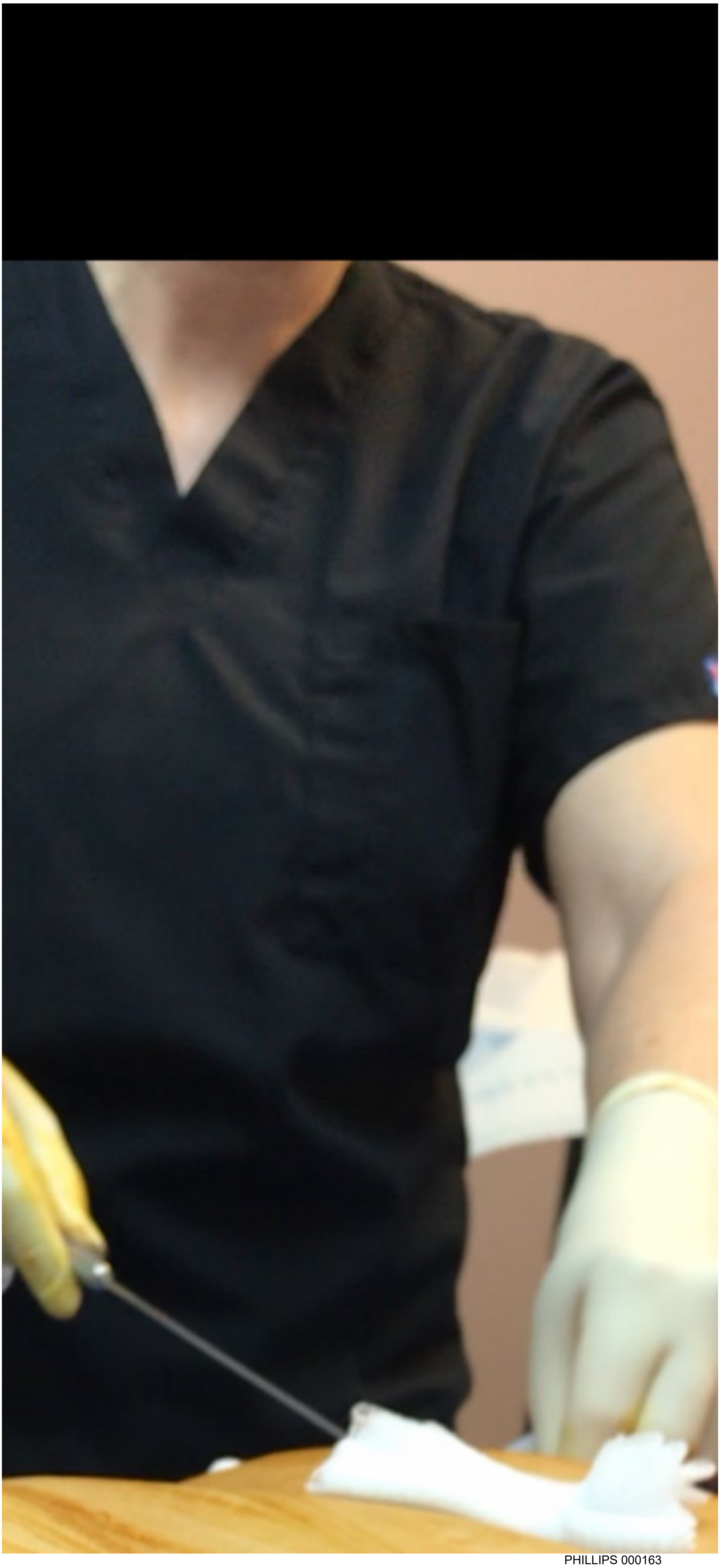
03/08/2019 Richard Greene

03/20/2022 Christopher Tomko

03/14/2022 Catherine Johnson – Medical Malpractice

MEDICAL RECORDS

This exhibit contains personal medical information, records of a patient or other personal identifying information that is confidential and otherwise protected from disclosure to the public pursuant to NRS 622.310.



MEDICAL RECORDS

This exhibit contains personal medical information, records of a patient or other personal identifying information that is confidential and otherwise protected from disclosure to the public pursuant to NRS 622.310.

FILED
NOV 23 2022
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

LEO P FLANGAS, ESQ.
Nevada Bar No. 5637
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600 S. Third Street
Las Vegas, Nevada 89101
Telephone: (702) 384-1990
Facsimile: (702) 384-1009
E-mail: leo@flangaslawfirm.com
Attorney for Defendant

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

In the Matter of Charges and Complaint Against: **MARYANN DEFOREST PHILLIPS, M.D., Defendant**	CASE NO.: 21-10032-1

FOURTH AMENDED PREHEARING CONFERENCE STATEMENT OF EXHIBITS AND WITNESSES FROM DEFENDANT MARYANN DEFOREST PHILLIPS, M.D.

Defendant, Maryann Deforest Phillips, M.D., by and through her counsel of record, Leo P. Flangas, of Flangas Civil Law Firm, LTD, hereby submits the following Prehearing Conference Statement in accordance with NAC 630.465 and the Hearing Officer's Notice and Order Scheduling Pre-Hearing and Hearing, filed on March 4, 2022.

It has been agreed between the State and Defendant's counsel that the prehearing conference statement can be amended and revised prior to the next pre-arbitration conference to be set. The agreement is made based on the following reasons:

1. The State's desire to amend the complaint,
2. The fact that Defendant's counsel recently received 2,500 pages of discovery on June 30, 2022 and Defendant's counsel has not had adequate time to review the documents in order to fully determine a complete list of witnesses and exhibits.

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I. LIST OF WITNESSES

The Defendant lists the following witnesses whom they may call at the hearing and incorporates any and all witnesses listed by the Medical Board as though they were fully incorporated herein.

It has been agreed between the State and Defendant's counsel that the prehearing conference statement can be amended and revised prior to the next pre-arbitration conference.

A. Dr. Maryann Deforest Phillips, M.D.

Dr. Phillips is expected is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case.

B. Giselle Platfoot

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips.

C. Anna L. Solano, N.P.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

D. Hope Cruz, R.N.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and

responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

E. Charimain Poecii, N.P.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures. as well as their duties and obligations as medical director of Vida Spa.

F. Evelyn Rodrigues, N.P.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures. as well as their duties and obligations as medical director of Vida Spa.

G. Krystin Molina, R.N.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips.

The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

H. Tiana Hubbard, N.P.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

I. Danielle Leeds, R.N.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

J. Dr. Andrew Sheep, M.D.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures. as well as their duties and obligations as medical director of Vida Spa.

K. Dr. Kushal, N.P.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures. as well as their duties and obligations as medical director of Vida Spa.

L. Dr. Salvador Borromeo, M.D.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

M. Dr. Gabriel Serrano, M.D.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

N. Dr. Allen Miller

Dr. Miller is a Board-Certified Chiropractor and is licensed to practice in California,

Montana, and Colorado. Dr. Miller is expected to testify as to his experience with working with Dr. Phillips when she was retained as an expert by his company, Bio Nutra Ceutical Health Solutions.

O. Minou Nelson

Ms. Nelson is expected to testify to the requirements for, as well as the policy and procedures for unlicensed facilities being inspected by the Nevada Department of Health and Human Services.

P. Marjorie Belsky, M.D.

Dr. Belsky is a licensed medical practitioner in the state of Nevada. She is expected to testify as to the allegations contained in the Second Amended Complaint. Dr. Belsky has conducted a review of the Second Amended Complaint and is expected to testify regarding her review of this matter and the applicable standard of care.

Q. Johna Rusch, Health Facilities Inspector II

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. Ms. Rusch will also testify to the facts and circumstances surrounding the formal inspection of Vida Spa in 2020 and 2021.

R. Jeffrey Caine, R.N., B.S.N, M.A., Health Facilities Inspector II

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. Mr. Caine is also expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to the inspection of Vida Spa in 2020 and 2021.

A. The Second Amended Complaint was received by this office on September 20, 2022. As such additional witnesses may be identified and supplemented at a later date.

B. Defendant reserves the right and intends call all witnesses identified and used by the State.

II. LIST OF EXHIBITS

The Defendant lists the following exhibits that they may introduce at the hearing on the charges and formal complaint against them. Additionally, Defendant reserves the right to present all exhibits listed in the Medical Board's prehearing conference statement and any supplement and/or amendment thereof.

It has been agreed between the State and Defendant's counsel that the prehearing conference statement can be amended and revised prior to the next pre-arbitration conference.

Exhibit Number	Description	Bates Range
A	Business cards for Johna Rusch and Jeffrey Caine from the State of Nevada Department of Health and Human Services	PHILLIPS 000001
B	Cannula Photos	PHILLIPS 000002 to PHILLIPS 000003
C	Vida Spa Consent for Surgery and Procedures	PHILLIPS 000004
D	Vida Spa Consent to Surgery and Procedures (Spanish)	PHILLIPS 000005
E	Fire Marshall Certificate	PHILLIPS 000006
F	Nevada Business License Details and Entity Name Change for Vida Spa	PHILLIPS 000007 to PHILLIPS 000010
G	Diagram of Layout of Vida Spa	PHILLIPS 000011 to PHILLIPS 000014
H	Outpatient Facility Tour Checklist	PHILLIPS 000015 – PHILLIPS 000016
I	Emails Regarding the Outpatient Facility Investigation of Vida Spa	PHILLIPS 000017 – PHILLIPS 000035
J	Emails and Documents from Gisselle Platfoot	PHILLIPS 000036 – PHILLIPS 000102

	Regarding the Licensing Application of Vida Spa	
K	Vida Spa Employee Handbook and Contract for Medical Director	PHILLIPS 000103 – PHILLIPS 000116
L	Vida Spa Medical Director Agreement with Dr. Salvador Borromeo	PHILLIPS 000117 – PHILLIPS 000121
M	Vida Spa Medical Director Agreement with Charmaine Porcii	PHILLIPS 000122 – PHILLIPS 000123
N	Vida Spa Medical Director Agreement with Dr. Sherman Washington Jr.	PHILLIPS 000124 – PHILLIPS 000127
O	Vida Spa Medical Director Agreement with Kiarash Mirkia M.D.	PHILLIPS 000128 – PHILLIPS 000135
P.	Curriculum Vitae and Resume of Ms. Belsky	PHILLIPS 000136 – PHILLIPS 000152
Q.	Photos of Ms. Chavez Procedure	PHILLIPS 000153 – PHILLIPS 000170
R	**Affidavit of Salvador Borromeo**	PHILLIPS 000171
S	**Affidavit of Anna Solano**	PHILLIPS 000172
T	**Affidavit of Krystin Molina**	PHILLIPS 000173 – PHILLIPS 000174
U	**Declaration of Charmaine Poecii**	PHILLIPS 000175

The Second Amended Complaint was received by this office on September 20, 2022. As such additional exhibits may be identified and supplemented at a later date.

Defendant reserves the right and intends to use any exhibits relied upon or identified by the Medical Board and reserves the right to supplement this list of exhibits as required.

Dated this 21st day of November, 2022.

/s/ Leo P. Flangas
LEO P FLANGAS, ESQ.
Nevada Bar No. 5637
600 S. Third Street
Las Vegas, Nevada 89101
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of November, 2022, service of the foregoing document was made by submission via email and USPS Certified Mail to the following parties:

NEVADA STATE BOARD OF MEDICAL EXAMINERS
Attn: Don White
325 E. Warm Springs Road, Suite 225
Las Vegas, NV 89119
Email: dwhite@medboard.nv.gov

Dated this 21st day of November, 2022

/s/ Ami Rebecca Meyers
An employee of Flangas Civil Law Firm

AFFIDAVIT OF SALVADOR G. BORROMEO

STATE OF NEVADA)
)ss:
COUNTY OF CLARK)

I, Salvador G. Borromeo, hereby swear and affirm as follows:

1. I was introduced to Vida Spa through Charmaine Poecci, and it was explained to me that Vida Spa was a medical spa that was licensed for aesthetics and injections.
2. Gisselle portrayed that they had been in business for several years as a licensed medical spa and facility.
3. I was mislead as to the licensing and certification of Vida Spa by Ms. Platfoot, I was informed that it was a medical spa and a medical facility.
4. I signed a contract to be Medical Director of Vida Spa in June 2020.
5. I was medical director for less than a month.
6. Within a month of being Medical Director, I received a call from Tammy Hankins PA, stating that she had performed liposuction on a patient and there were complications.
7. During my brief time as the Medical Director, I was in charge of medication prescriptions, distribution, and administration.

FURTHER AFFIANT SAYETH NAUGHT, this 10th day of October, 2022.

Salvador G. Borromeo

Subscribed and Sworn to before me this 10th day of October, 2022.

Notary Public in and for said County and State

AMI REBECCA MEYERS
Notary Public, State of Nevada
Appointment No. 14-14039-1
My Appt. Expires Jul 27, 2026

AFFIDAVIT OF ANA L. SOLANO

STATE OF NEVADA)
)ss:
COUNTY OF CLARK)

I, Ana L. Solano, hereby swear and affirm as follows:

1. I worked at Vida Spa from approximately June 1, 2020 to April 21, 2021, as a registered nurse on the aesthetic side of the spa. I saw patients for botox, fillers, consultations, and prepared procedure rooms for the patients.
2. I was under the impression that Vida Spa was fully licensed, but cannot recall any specific representations made.
3. During my employment at Vida Spa, the Medical Directors were Tammy Hankins, Charmaine Poecii, and Evelyn Rodrigues. (for aesthetic side) AS
   Porcii AS
4. Once I filled out a patient file, I would provide the file back to reception. I do not know which Medical Director was responsible for the maintenance of the patient files, but I know the Medical Director was responsible for the files.

AFFIANT SAYETH NAUGHT, this 20 day of October, 2022.

~~Ana~~ L. Solano
Anna AS

Subscribed and Sworn to before me this 20th day of October, 2022.

Notary Public in and for said County and State

JUAN CEREZO
Notary Public - State of Nevada
Appointment No. 18-1713-1
My Appointment Expires 02-07-2026

AFFIDAVIT OF KRYSTIN MOLINA

STATE OF NEVADA)
)ss:
COUNTY OF CLARK)

I, Krystin Molina, hereby swear and affirm as follows:

1. I am a licensed registered nurse.
2. I worked at Vida Spa for approximately three months, from May, 2021 to July, 2021.
3. I was given the impression during the initial employment interview that Vida Medical Spa was a licensed facility to perform all the medical procedures that they were conducting. There were two persons present during the initial employment interview. One person was from human resources, but I do not recall that persons name. The other person was Gisselle Platfoot, who was one of the owners of Vida Spa.
4. I was given the impression that Vida Spa had been in business for a while, a year or longer, and from every indication, it appeared to be a well-established established business.
5. During the time period that I was employed at Vida Spa, the business performed Botox, PRP, fat transfers, and lipo suction.
6. My duties were preparing instruments, speaking to patients, recording patients vitals during procedures and explaining some post operative procedures. I worked in the procedure room.
7. As a registered nurse, I was working under a medical director for the spa. However, I do not recall who was the medical director was, nor do I recall meeting anyone with the title of medical director.

8. I recall that there were two owners of Vida Spa, Gisselle Platfoot was one and I do not remember the other owners' name. The other owner never came into the facility.
9. Based on my observations during my time working at Vida Spa, I believe that Gisselle Platfoot was the person who was responsible and kept all medical records during the short time period that I worked there.
10. I was employed at Vida Spa when Dr. Sheep and Dr. Phillips were performing lipo suction.
11. I quit Vida Spa when State Medical Board inspectors came into the facility, and I discovered the facility was not licensed to perform the procedures it was offering and conducting.

FURTHER AFFIANT SAYETH NAUGHT, this 11th day of October, 2022.

Krystin Molina

Subscribed and Sworn to before me this 11th day of October, 2022.

Notary Public in and for said County and State

TYRIN M. KANEMEIER
Notary Public, State of Nevada
Appointment No. 17-3655-1
My Appt. Expires Oct 18, 2025

Declaration of Charmaine Poecii

State of Nevada)
)ss:
County of Clark)

I, Charmaine Poecci hereby state as follows:

1. I worked for Vida Spa for approximately one year, leaving in January of 2021.
2. I was one of the medical directors for the aesthetics side of the Spa and cannot recall the names of any others.
3. Gisselle Platfoot represented the Spa as being fully licensed for aesthetics such as Botox.
4. Gisselle had a business partner who owned a dental clinic.
5. I was never aware that Vida Spa was not licensed for the procedures they performed.
6. Medical records were kept in a closet, medical providers such as the nurses, nurse practitioners, estheticians, anyone performing a procedure, had access to the files, but they were maintained by Gisselle.
7. Per NRS 53.250 I declare under penalty of perjury, under the laws of the State of Nevada the foregoing is true and correct.

Dated this 24th day of October, 2022.

Charmaine Poecii

LEO P FLANGAS, ESQ.
Nevada Bar No. 5637
FLANGAS LAW FIRM, LTD.
600 S. Third Street
Las Vegas, Nevada 89101
Telephone: (702) 384-1990
Facsimile: (702) 384-1009
E-mail: leo@flangaslawfirm.com
Attorney for Defendant

FILED
DEC 12 2022
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

In the Matter of Charges and Complaint Against: **MARYANN DEFOREST PHILLIPS, M.D., Defendant**	CASE NO.: 21-10032-1

FIFTH AMENDED PREHEARING CONFERENCE STATEMENT OF EXHIBITS AND WITNESSES FROM DEFENDANT MARYANN DEFOREST PHILLIPS, M.D.

Defendant, Maryann Deforest Phillips, M.D., by and through her counsel of record, Leo P. Flangas, of Flangas Civil Law Firm, LTD, hereby submits the following Prehearing Conference Statement in accordance with NAC 630.465 and the Hearing Officer's Notice and Order Scheduling Pre-Hearing and Hearing, filed on March 4, 2022.

It has been agreed between the State and Defendant's counsel that the prehearing conference statement can be amended and revised prior to the next pre-arbitration conference to be set. The agreement is made based on the following reasons:

1. The State's desire to amend the complaint,
2. The fact that Defendant's counsel recently received 2,500 pages of discovery on June 30, 2022 and Defendant's counsel has not had adequate time to review the documents in order to fully determine a complete list of witnesses and exhibits.

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I. LIST OF WITNESSES

The Defendant lists the following witnesses whom they may call at the hearing and incorporates any and all witnesses listed by the Medical Board as though they were fully incorporated herein.

It has been agreed between the State and Defendant's counsel that the prehearing conference statement can be amended and revised prior to the next pre-arbitration conference.

A. Dr. Maryann Deforest Phillips, M.D.

Dr. Phillips is expected is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case.

B. Giselle Platfoot

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips.

C. Anna L. Solano, N.P.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

D. Hope Cruz, R.N.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and

responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

E. Charimain Poecii, N.P.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures. as well as their duties and obligations as medical director of Vida Spa.

F. Evelyn Rodrigues, N.P.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures. as well as their duties and obligations as medical director of Vida Spa.

G. Krystin Molina, R.N.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips.

The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

H. Tiana Hubbard, N.P.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

I. Danielle Leeds, R.N.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

J. Dr. Andrew Sheep, M.D.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures. as well as their duties and obligations as medical director of Vida Spa.

K. Dr. Kushal, N.P.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures. as well as their duties and obligations as medical director of Vida Spa.

L. Dr. Salvador Borromeo, M.D.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

M. Dr. Gabriel Serrano, M.D.

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. The witness will also testify the standard operating room procedure at Vida Spa, Vida Spa purporting to be a medical facility, and the administration of medications during procedures.

N. Dr. Allen Miller

Dr. Miller is a Board-Certified Chiropractor and is licensed to practice in California,

Montana, and Colorado. Dr. Miller is expected to testify as to his experience with working with Dr. Phillips when she was retained as an expert by his company, Bio Nutra Ceutical Health Solutions.

O. Person Most Knowledgeable, Licensing Division, Department of Health and Human Services, Nevada Division of Public and Behavioral Health.

The Person Most Knowledgeable is expected to testify to the requirements for, as well as the policy and procedures for unlicensed facilities being inspected by the Nevada Department of Health and Human Services.

P. Marjorie Belsky, M.D.

Dr. Belsky is a licensed medical practitioner in the state of Nevada. She is expected to testify as to the allegations contained in the Second Amended Complaint. Dr. Belsky has conducted a review of the Second Amended Complaint and is expected to testify regarding her review of this matter and the applicable standard of care.

Q. Johna Rusch, Health Facilities Inspector II

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips. Ms. Rusch will also testify to the facts and circumstances surrounding the formal inspection of Vida Spa in 2020 and 2021.

R. Jeffrey Caine, R.N., B.S.N, M.A., Health Facilities Inspector II

The witness is expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to standard operating procedure at Vida Spa, the control and custody of medical records, physicians, nurses, and staff, and all subsequent duties and responsibilities, proper procedure in the operating room, and the duty and obligations of Dr. Phillips.

Mr. Caine is also expected to testify regarding the facts and circumstances surrounding the formal complaint in this case, including but not limited to the inspection of Vida Spa in 2020 and 2021.

A. The Second Amended Complaint was received by this office on September 20, 2022. As such additional witnesses may be identified and supplemented at a later date.

B. Defendant reserves the right and intends call all witnesses identified and used by the State.

II. LIST OF EXHIBITS

The Defendant lists the following exhibits that they may introduce at the hearing on the charges and formal complaint against them. Additionally, Defendant reserves the right to present all exhibits listed in the Medical Board's prehearing conference statement and any supplement and/or amendment thereof.

It has been agreed between the State and Defendant's counsel that the prehearing conference statement can be amended and revised prior to the next pre-arbitration conference.

Exhibit Number	Description	Bates Range
A	Business cards for Johna Rusch and Jeffrey Caine from the State of Nevada Department of Health and Human Services	PHILLIPS 000001
B	Cannula Photos	PHILLIPS 000002 to PHILLIPS 000003
C	Vida Spa Consent for Surgery and Procedures	PHILLIPS 000004
D	Vida Spa Consent to Surgery and Procedures (Spanish)	PHILLIPS 000005
E	Fire Marshall Certificate	PHILLIPS 000006
F	Nevada Business License Details and Entity Name Change for Vida Spa	PHILLIPS 000007 to PHILLIPS 000010
G	Diagram of Layout of Vida Spa	PHILLIPS 000011 to PHILLIPS 000014
H	Outpatient Facility Tour Checklist	PHILLIPS 000015 – PHILLIPS 000016

I	Emails Regarding the Outpatient Facility Investigation of Vida Spa	PHILLIPS 000017 – PHILLIPS 000035
J	Emails and Documents from Gisselle Platfoot Regarding the Licensing Application of Vida Spa	PHILLIPS 000036 – PHILLIPS 000102
K	Vida Spa Employee Handbook and Contract for Medical Director	PHILLIPS 000103 – PHILLIPS 000116
L	Vida Spa Medical Director Agreement with Dr. Salvador Borromeo	PHILLIPS 000117 – PHILLIPS 000121
M	Vida Spa Medical Director Agreement with Charmaine Porcii	PHILLIPS 000122 – PHILLIPS 000123
N	Vida Spa Medical Director Agreement with Dr. Sherman Washington Jr.	PHILLIPS 000124 – PHILLIPS 000127
O	Vida Spa Medical Director Agreement with Kiarash Mirkia M.D.	PHILLIPS 000128 – PHILLIPS 000135
P.	Curriculum Vitae and Resume of Ms. Belsky	PHILLIPS 000136 – PHILLIPS 000152
Q.	Photos of Ms. Chavez Procedure	PHILLIPS 000153 – PHILLIPS 000170
R	Affidavit of Salvador Borromeo	PHILLIPS 000171
S	Affidavit of Anna Solano	PHILLIPS 000172
T	Affidavit of Krystin Molina	PHILLIPS 000173 – PHILLIPS 000174
U	Declaration of Charmaine Poecii	PHILLIPS 000175

Defendant reserves the right and intends to use any exhibits relied upon or identified by the Medical Board and reserves the right to supplement this list of exhibits as required.

Dated this 12th day of December, 2022

/s/ Leo P. Flangas
LEO P FLANGAS, ESQ.
Nevada Bar No. 5637
600 S. Third Street
Las Vegas, Nevada 89101
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of December, 2022, service of the foregoing document was made by submission via email and USPS Certified Mail to the following parties:

NEVADA STATE BOARD OF MEDICAL EXAMINERS
Attn: Don White
325 E. Warm Springs Road, Suite 225
Las Vegas, NV 89119
Email: dwhite@medboard.nv.gov

Dated this 12th day of December, 2022

/s/ Ami Rebecca Meyers
An employee of Flangas Civil Law Firm

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: MARYANNE DEFOREST PHILLIPS, M.D., Respondent.	Case No. 21-10032-1

FILED

DEC 15 2022

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

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

SECOND SUPPLEMENTAL PREHEARING CONFERENCE STATEMENT OF THE INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board) submits the following Second Supplemental Prehearing Conference Statement in accordance with NAC 630.465 and the Hearing Officer's Second Amended Scheduling Order, filed on October 14, 2022. (**New items are in bold font**)

I. LIST OF WITNESSES

The IC of the Board lists the following witnesses whom it may call at the hearing on the charges in the Complaint against Respondent filed herein:

a. Johnna LaRue, Deputy Chief of Investigations
Nevada State Board of Medical Examiners

Ms. LaRue is expected to verify documentary evidence obtained during the investigation of this case and testify regarding the investigation of this matter.

b. Maryanne Deforest Phillips, M.D.

Dr. Phillips is expected to testify regarding the facts and circumstances surrounding the formal Complaint in this case.

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c. Patient A[1]

Patient A was a patient of Respondent in this case and she is expected to testify as to the facts and circumstances surrounding the formal Complaint in this matter.

d. Margaret Francis Byrd, Legal Assistant
Nevada State Board of Medical Examiners

Ms. Byrd is a Legal Assistant employed by the Nevada State Board of Medical Examiners and is expected to testify regarding facts and circumstances surrounding video evidence submitted as exhibits by the Investigative Committee.

e. Tiffany D. McCormack, M.D., F.A.C.S.

Dr. McCormack is a Board-Certified Plastic Surgeon and is licensed to practice medicine in the State of Nevada. Dr. McCormack has conducted a medical review of this case and is expected to testify regarding her medical review of this matter and the applicable standard of care.

f. Mark E. Janes, M.D.

Dr. Janes is a Board-Certified Anesthesiologist and is licensed to practice medicine in the State of Nevada. Dr. Janes has conducted a medical review of this case and is expected to testify regarding his medical review of this matter and the applicable standard of care.

g. All witnesses identified by Respondent in her prehearing conference statement and/or in any subsequent amended, revised or supplemental prehearing conference statement, or list of witnesses disclosed by Respondent of persons she may call to testify at the hearing herein.

The IC reserves the right to amend and supplement this list as required for prosecution of this case.

II. LIST OF EXHIBITS

The IC of the Board lists the following exhibits that it may introduce at the hearing on the charges and formal Complaint against the Respondent. Additionally, the IC of the Board reserves the right to rely on all exhibits listed in Respondent's prehearing conference statement and any supplement and/or amendment thereof.

[1] Patient A's true identity is not disclosed herein to protect her privacy, but is disclosed in the Patient Designation filed and served alongside the formal Second Amended Complaint in this case.

OFFICE OF THE GENERAL COUNSEL
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EXHIBIT NO.	DESCRIPTION	BATES RANGE (NSBME)
1	2019 Settlement Agreement Signed by Respondent	001-010
2	Nevada Secretary of State Information for Vida Spa, LLC	011-013
3	Clark County Business License Search Results for Vida Spa	014
4	March 19, 2021 Allegation Letter to Respondent with Request for Records	015-019
5	April 27, 2021 Second Request for Response	020
6	May 19, 2021 Respondent's Response via Attorney Lyn Beggs to Allegation Letter	021-027
7	January 5, 2021 Dr. Borromeo's Response to Allegation Letter	028
8	Black and White Photos of Vida Spa, LLC taken by Kim Friedman June 23, 2021	029-041
9	March 24, 2021 Nevada State Board of Pharmacy Cease and Desist Letter to Respondent	042-043
10	March 24, 2021 Nevada State Board of Pharmacy Cease and Desist Letter to Giselle Platfoot and Vida Spa, LLC	044-045
11	Sedation Log of Vida Spa, LLC retrieved from Vida Spa June 23, 2021	046-049
12	Daily Procedures January 1, 2019 to December 14, 2020	050-054
13	Medication Log Sheet of Vida Spa, LLC from May 20, 2021 to June 23, 2021	055-069
14	License Application Page of Maryanne Phillips	070
15	PATIENT B Medical Records	071-090
16	PATIENT C Medical Records	091-118
17	PATIENT D Medical Records	119-139
18	PATIENT E Medical Records	140-168
19	PATIENT F Medical Records	169-196

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20	PATIENT G Medical Records	197-199
21	PAITENT H Medical Records	200-226
22	PATIENT A Medical Records	227-267
23	PATIENT I Medical Records	268-300
24	PATIENT J Medical Records	301-332
25	PATIENT K Medical Records	333-363
26	PATIENT L Medical Records	364-398
27	PATIENT M Medical Records	399-434
28	PATIENT N Medical Records	435-470
29	PATIENT O Medical Records	471-499
30	PATIENT P Medical Records	500-532
31	PATIENT Q Medical Records	533-562
32	PATIENT R Medical Records	563-598
33	PATIENT S Medical Records	599-628
34	PATIENT T Medical Records	629-670
35	PATIENT U Medical Records	671-699
36	PATIENT V Medical Records	700-735
37	PATIENT W Medical Records	736-771
38	PATIENT X Medical Records	772-806
39	PATIENT Y Medical Records	807-844
40	PATIENT Z Medical Records	845-871

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41	PATIENT AA Medical Records	872-903
42	PATIENT BB Medical Records	904-932
43	PATIENT CC Medical Records	933-960
44	PATIENT DD Medical Records	961-996
45	PATIENT EE Medical Records	991A-1029
46	PATIENT FF Medical Records	1030-1059
47	PATIENT GG Medical Records	1060-1094
48	July 2, 2021 Nevada Department of Health and Human Services Cease Operation Order to Vida Spa, LLC	1095
49	July 2, 2021 Nevada Department of Health and Human Services Notice of Denial of Application to Gisselle Platfoot and Vida Spa, LLC	1096-1098
50	July 29, 2021 Clark County Department of Business Temporary Suspension of Business License	1099-1100
51	Color Photographs Taken June 23, 2021 by Kim Friedman	1101-1116
52	Color Photographs Taken October 27, 2020 by Kim Friedman	1117-1179
53	Direct Compounding Pharmacy Records	1180-1226
54	McKesson Pharmacy Records Spreadsheet	1227
54A	Email from McKesson Pharmacy to Investigator Kim Friedman	2330-2331
55	PATIENT HH Medical Records	1228-1259
56	PATIENT II Medical Records	1260-1292
57	PATIENT JJ Medical Records	1293-1323
58	PATIENT KK Medical Records	1324-1353
59	PATIENT LL Medical Records	1354-1380

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60	PATIENT MM Medical Records	1381-1411
61	PATIENT NN Medical Records	1412-1440
62	PATIENT OO Medical Records	1441-1475
63	PATIENT PP Medical Records	1476-1517
64	PATIENT QQ Medical Records	1518-1553
65	PATIENT RR Medical Records	1554-1582
66	PATIENT SS Medical Records	1583-1616
67	PATIENT TT Medical Records	1617-1646
68	PATIENT UU Medical Records June 8, 2021	1647-1657
69	PATIENT UU Medical Records May 5, 2021	1658-1683
70	PATIENT VV Medical Records	1684-1713
71	PATIENT WW Medical Records	1714-1743
72	PATIENT XX Medical Records	1744-1782
73	PATIENT YY Medical Records	1783-1807
74	PATIENT ZZ Medical Records	1808-1843
75	PATIENT AAA Medical Records	1844-1880
76	PATIENT BBB Medical Records	1881-1911
77	PATIENT CCC Medical Records	1912-1938
78	PATIENT DDD Medical Records	1939-1972
79	PATIENT EEE Medical Records	1973-2001
80	PATIENT FFF Medical Records	2002-2029

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81	PATIENT GGG Medical Records	2030-2056
82	PATIENT HHH Medical Records	2057-2084
83	PATIENT III Medical Records	2085-2114
84	PATIENT JJJ Medical Records	2115-2149
85	PATIENT KKK Medical Records	2150-2174
86	PATIENT LLL Medical Records	2175-2225
87	PATIENT MMM Medical Records	2226-2256
88	PATIENT NNN Medical Records	2257-2290
89	PATIENT OOO Medical Records	2291-2320
90	Subpoena for Records to Vida Spa, LLC and Affidavit of Service of Subpoena	2321-2329
91	Letter from Lyn Beggs, Esq. to Nevada State Board of Medical Examiners Regarding Withdrawal of Representation	2332
92	Facebook Video of Giselle Platfoot and Maryanne Phillips Promoting Liposuction Procedures	2333
93	Facebook Video of Maryanne Phillips Performing Chin Liposuction Procedure	2334
94	Facebook Video of Maryanne Phillips Assisting Clean Up of a Patient after Chin Liposuction Procedure	2335
95	Facebook Video of an Unknown Employee and Maryanne Phillips Promoting Liposuction With or Without Sedation	2336
96	Direct Compounding Subpoena for Records	2337-2341
97	McKesson Subpoena for Records	2342-2346
98	Transcript of Hearing on Order for Summary Suspension	2347-2512
99	Hearing Officer's Order After Hearing Continuing Suspension	2513-2519
100	2016 Settlement Agreement and Order	2520-2532

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101	Order Modifying Previously Approved Settlement Agreement 12/08/2017	2533-2547
102	PATIENT TTT Medical Records	2548-2568
103	**First Amended Complaint Against Tammy Lynn Hankins, PA-C by the Investigative Committee of the Nevada State Board of Medical Examiners (Case No. 21-51633-1)**	**2569-2624**
104	**Findings of Fact, Conclusions of Law and Order in the Case Against Tammy Lynn Hankins, PA-C by the Investigative Committee of the Nevada State Board of Medical Examiners (Case No. 21-51633-1)**	**2625-2641**
105	**Complaint Against Salvador Garcia Borromeo, M.D. by the Investigative Committee of the Nevada State Board of Medical Examiners (Case No. 21-12423-1)**	**2642-2669**
106	**Settlement Agreement in Case Against Salvador Garcia Borromeo, M.D. by the Investigative Committee of the Nevada State Board of Medical Examiners (Case No. 21-12423-1)**	**2670-2678**

The IC reserves the right to use any exhibits relied upon or identified by Respondent and reserves the right to amend and supplement this list of exhibits as required.

DATED this 5th day of December, 2022.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

DONALD K. WHITE, J.D.
Senior Deputy General Counsel
9600 Gateway Drive
Reno, NV 89521
Email: dwhite@medboard.nv.gov
Attorney for the Investigative Committee

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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 5th day of October, 2022, I served a file-stamped copy of the foregoing **SECOND AMENDED PREHEARING CONFERENCE STATEMENT**, via Federal Express Overnight to the following party:

MARYANNE PHILLIPS, M.D.
c/o Leo Flangas, Esq.
Flangas Law Firm
600 South Third Street
Las Vegas, NV 89101
Attorney for Respondent

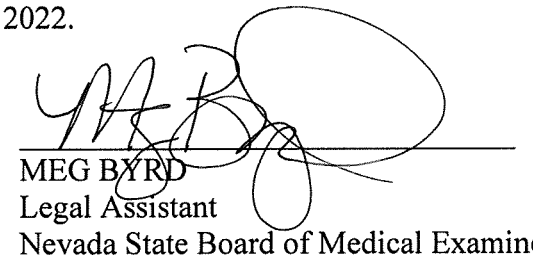
Tracking No.: *7707 9139 7478*

Additionally, the document and its exhibits were delivered via email as follows:

MARYANNE PHILLIPS, M.D.
c/o Leo Flangas, Esq.
email: leo@flangaslawfirm.com
Attorney for Respondent

CHARLES B. WOODMAN, ESQ.
Email: hardywoodmanlaw@msn.com
Hearing Officer

DATED this 15th day of December, 2022.



MEG BYRD
Legal Assistant
Nevada State Board of Medical Examiners

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EXHIBIT 103

EXHIBIT 103

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against:	**Case No. 21-51633-1**
TAMMY LYNN HANKINS, PA-C,	
Respondent.	

FILED
JUL 20 2021
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By: CW

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
9600 Gateway Drive
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FIRST AMENDED COMPLAINT

The Investigative Committee[1] (IC) of the Nevada State Board of Medical Examiners (Board), by and through Aaron Bart Fricke, J.D., General Counsel and attorney for the IC, having a reasonable basis to believe that Tammy Lynn Hankins, PA-C, (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 First Amended Complaint, stating the IC's charges and allegations as follows:

I. RESPONDENT'S HISTORY OF CRIMINAL AND UNPROFESSIONAL CONDUCT

1. On or about March 1, 2012, in the Superior Court of the State of Arizona, in and for the County of Mohave (Arizona Court), in Case No. CR-2012-00287, a Grand Jury indicted Respondent on five (5) criminal counts of violations of Arizona law, including COUNT 1: FRAUDULENT SCHEMES AND ARTIFICES, CLASS 2 FELONY; COUNT 2: OBTAIN OR PROCURE THE ADMINISTRATION OF A NARCOTIC DRUG BY FRAUD, CLASS 3 FELONY; COUNT 3: OBTAINING A DANGEROUS DRUG BY FRAUD, CLASS 3 FELONY; COUNT 4: ATTEMPTED OBTAINING A DANGEROUS DRUG BY FRAUD, CLASS 4 FELONY; COUNT 5: ATTEMPTED OBTAINING A DANGEROUS DRUG BY FRAUD, CLASS 4 FELONY.

[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 Victor M. Muro, M.D., Chair, Ms. April Mastroluca and Weldon Havins, M.D., J.D.

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
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Arizona Case History

2. On or about November 28, 2012, the Arizona Regulatory Board of Physician Assistants ("Arizona Board"), in Case No. PA-11-0127A, found Respondent, who had been the holder of a license to practice medicine as a physician assistant in the State of Arizona (License No. 2228), guilty of unprofessional conduct. Specifically, the Arizona Board had received information from a pharmacist alleging that Respondent had been recklessly writing prescriptions without supervision, writing abnormally large quantities of controlled drugs, and writing outside her scope of practice. Further, Respondent's supervising physician (SP) had terminated the supervision relationship with Respondent on September 13, 2011, yet Respondent proceeded to perform healthcare tasks without an SP's direction or supervision from September 13, 2011, through October 25, 2011, according to the date of the last prescribed controlled substance on the Pharmacy Monitoring Profile (which is a similar database in the State of Arizona to the Nevada Prescription Monitoring Program). On October 26, 2011, Respondent wrote two (2) prescriptions for controlled substances on a prescription pad that contained her SP's, name and DEA number. The prescriptions were issued after the SP terminated his supervisory relationship with Respondent. Arizona Board staff determined that the prescription pads did not contain Respondent's current SP information. In addition, Respondent failed to timely appear for an investigational interview with Arizona Board staff to address the quality of care issues in this case on four (4) occasions. Arizona Board staff found that Respondent failed to cooperate with the Arizona Board's investigation. A Medical Consultant (MC) reviewed the medical records of certain patients treated by Respondent to determine the quality of care provided by Respondent.

Patient JC

3. Respondent treated Patient JC for weight loss and removal of skin lesions, and Respondent started the patient on Levoxyl and Prozac. Patient JC continued to be seen by Respondent for chronic pain, and received prescriptions for Phentermine, Vicodin, Valium, Xanax and Oxycodone during the course of treatment with Respondent. Patient JC's prescriptions were reportedly stolen in March 2011. Patient JC later underwent Fraxel treatment along with Mesotherapy that reportedly required continuation of her pain medications. By October 2011,

Patient JC had not established herself with a pain specialist and again claimed that her prescriptions were stolen.

Patient MW

4. Another patient, Patient MW, received medical care in Respondent's office for a Fraxel treatment on August 23, 2011. There is no record of prescriptions written for this patient in the chart provided. Lastly, a police report made by Respondent's former SP alleged that Respondent had written thirty-nine (39) prescriptions for Patient MW between June and September of 2011, including Oxycodone, Hydrocodone, Valium, Phentermine, Xanax, and Endocet. In particular, Respondent wrote a prescription for Oxycodone 5 mg, 100 ct., and Diazepam 10 mg, 100 ct., with five refills on June 20, 2011. The record of all pharmacy prescriptions written by Respondent from November 2010 to November 2011 includes over 900 prescriptions, approximately 99% of which written by Respondent during this time period were for Phentermine, Diazepam, Alprazolam,. Hydrocodone, Oxycodone, Endocet and Carisoprodol. Of particular concern to the care of Patient MW were prescriptions for Hydrocodone-acetaminophen 7.5-750 mg, 100 ct., with five (5) refills, and prescriptions for Oxycodone-acetaminophen 10-325 mg, 100 ct., Alprazolam 1 mg, 90 ct., with two (2) refills, and Meperidine 50 mg., 40 ct., on January 18, 2011.

Arizona Board Discipline

5. The Arizona Board determined that the standard of care when prescribing medications for patients requires documentation of the medications prescribed, indications for use and monitoring of the amounts being prescribed and noted in the medical record. The Arizona Board determined that Respondent deviated from the standard of care by inappropriately prescribing medications for patients, and that the excess prescribing of these medications can lead to addiction or overdose with a possible fatal outcome.

6. For the foregoing misconduct, the Arizona Board found Respondent guilty of unprofessional conduct pursuant to Arizona Revised Statute (ARS) §32-2501(18)(i) ("prescribing or dispensing controlled substances or prescription-only drugs for which the physician assistant is not approved or in excess of the amount authorized pursuant to this chapter"); ARS §32-2501(18)(j) ("any conduct or practice that is or might be harmful or dangerous to ·the health of a patient or the

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public"); ARS § 32-2501 (18)(p) ("failing or refusing to maintain adequate records on a patient"), and ARS § 32-2501(18)(z) ("failing to furnish legally requested information to the [Arizona Board] or its Investigator in a timely manner."). The Arizona Board also found that a practice restriction was needed in order to protect the public, and ordered that Respondent be issued a Letter of Reprimand, placed on probation for one (1) year with additional conditions and restrictions.

Respondent's Arizona License Renewal

7. Respondent's license to practice medicine as a physician assistant in the State of Arizona (License No. 2228) was due for renewal by June 1, 2013; Respondent did not renew, and her Arizona license expired by operation of law on May 20, 2014.

Criminal Conduct by Respondent in Arizona

8. On or about September 14, 2013, the Arizona Court found that Respondent had knowingly, intelligently and voluntarily pled guilty to the offense of: COUNT 3: OBTAINING A DANGEROUS DRUG BY FRAUD, CLASS 3 FELONY. On or about October 2, 2013, the Arizona Court entered its judgment finding Respondent guilty of the foregoing charge, and sentenced Respondent to a suspended imposition of sentence and placing the Defendant on probation for a period of four years commencing October 2, 2013, among other conditions of probation.

9. On or about January 17, 2014, pursuant to a Petition to Revoke Probation, the Arizona Court ordered that Respondent be held without bond pending hearing on said petition.

10. On or about August 11, 2014, the Arizona Court found Respondent guilty of violating her probation for the following crimes: OBTAINING A DANGEROUS DRUG BY FRAUD, CLASS 3 FELONY, and SEXUAL CONDUCT WITH A MINOR, CLASS 6 FELONY. For the first crime, Respondent was sentenced to two and one-half years with the Arizona Department of Corrections, as a minimum sentence, to date from August 11, 2014, and was given credit for two hundred eight (208) days served prior to sentencing. For the second crime, Respondent as sentenced to one (1) additional year of incarceration, that sentence to run consecutive to the other.

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Respondent's Application for a Physician Assistant License in the State of Nevada

11. On or about September 24, 2019, Respondent applied to the Board for a license to practice medicine as a physician assistant in the State of Nevada. On March 6, 2020, the Board met for its regularly scheduled public meeting, and considered Respondent's application in open session, at which time, Respondent informed the Board that she had not practiced clinical medicine since she had been incarcerated, and stated that, though she had secured a job at a medical spa, and planned in the future to perform plastic surgery injections, in-office procedures, excisions, and assisting with different procedures, nevertheless, she had not done so yet and the aforementioned job offer was contingent upon her obtaining a license in Nevada. At the meeting, individual Board members expressed concerns regarding her history of criminal and unprofessional conduct, and concerns about the fact that Respondent had not practiced clinical medicine since her incarceration. Nevertheless, considering that Respondent had recently recertified as a physician assistant with National Commission on Certification of Physician Assistants, which demonstrated to some extent her current clinical competency, the Board approved her application and granted her a license to practice medicine.

12. The Board issued to Respondent an active license to practice medicine as a physician assistant in the State of Nevada (License No. PA2277) on March 6, 2020.

13. Respondent was not licensed to practice medicine as a physician assistant in the State of Nevada before March 6, 2020.

14. Respondent does not hold an active Drug Enforcement Agency (DEA) registration, and has not held a valid registration since 2016. Respondent also does not hold and has never held an active license or registration with the Nevada State Board of Pharmacy (NSBOP).

II. STATEMENT OF LAW

15. Pursuant to NRS 630.020(1)-(4), the "Practice of medicine" means:

> 1. To diagnose, treat, correct, prevent or prescribe for any human disease, ailment, injury, infirmity, deformity or other condition, physical or mental, by any means or instrumentality, including, but not limited to, the performance of an autopsy.
>
> 2. To apply principles or techniques of medical science in the diagnosis or the prevention of any such conditions.

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3. To perform any of the acts described in subsections 1 and 2 by using equipment that transfers information concerning the medical condition of the patient electronically, telephonically or by fiber optics, including, without limitation, through telehealth, from within or outside this State or the United States.

4. To offer, undertake, attempt to do or hold oneself out as able to do any of the acts described in subsections 1 and 2.

16. NRS 630.400(1)(d) provides that it is unlawful to practice medicine without being licensed under NRS Chapter 630.

17. Pursuant to NRS 630.400(2) and NRS 193.130(c) and (d), the unlawful practice of medicine is a felony, punishable by imprisonment in the state prison for a minimum term of not less than one (1) year and a maximum term of not more than five (5) years.

18. NAC 630.380(1)(m) provides that violating any provision of NRS 630.301 to 630.3065, is grounds for initiating disciplinary action against a physician assistant.

19. NAC 630.380(1)(f) provides that malpractice in the performance of medical services is grounds for initiating disciplinary action against a physician assistant.

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

21. Pursuant to NAC 630.375(2) a physician assistant shall not perform medical services without supervision from his or her supervising physician, except in life-threatening and emergency situations.

22. Pursuant to NAC 630.370, a supervising physician is responsible for all the medical activities of his or her physician assistant and shall ensure, among other obligations, that the physician assistant performs only those medical services which have been approved by his or her supervising physician, there is strict compliance with the regulations of the State Board of Pharmacy regarding controlled substances, poisons, dangerous drugs or devices, and that the supervising physician is available at all times that his or her physician assistant is performing medical services to consult with his or her assistant.

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23. Pursuant to NAC 630.380(1)(a), willfully and intentionally making a false or fraudulent statement in applying for a license is grounds for initiating disciplinary action against a physician assistant.

24. Pursuant to NAC 630.380(1)(c), performing medical services otherwise than in a life-threatening or emergency situation, and at the direction or under the supervision of the supervising physician of the physician assistant is grounds for initiating disciplinary action against a physician assistant.

25. Pursuant to NRS 630.3065(2)(c), knowingly or willfully failing to comply with or provision of NRS Chapter 630 is grounds for initiating disciplinary action against a physician.

26. 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."

27. Pursuant to 21 Code of Federal Regulations (CFR) §1306.04(a)-(b) and NRS 453.381, a physician or physician assistant may prescribe or administer controlled substances only for a legitimate medical purpose and in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, and a prescription may not be issued in order for an individual practitioner to obtain controlled substances for supplying the individual practitioner for the purpose of general dispensing to patients. 21 CFR §1306.04(a)-(b).

28. Pursuant to NRS 630.3062(1)(h), fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, administering or dispensing of a controlled substance listed in schedule II, III or IV is grounds for initiating disciplinary action or denying licensure.

29. Pursuant to NRS 449.442(1)-(2), an office of a physician or a facility that provides health care, other than a medical facility (as specifically defined in NRS 449.0151), must obtain a permit pursuant to NRS 449.443 from the Nevada State Board of Health, and must maintain current accreditation by a nationally recognized organization approved by the Nevada State Board of Health, before offering to a patient a service of general anesthesia, conscious sedation or deep sedation.

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30. Pursuant to NRS 630.306(1)(o), failure to comply with the requirements of NRS 630.373 is grounds for initiating discipline or denying licensure.

31. Pursuant to NRS 630.373(1), a physician shall not administer or supervise directly the administration of general anesthesia, conscious sedation or deep sedation to patients unless the general anesthesia, conscious sedation or deep sedation is administered: (a) in an office of a physician or osteopathic physician which holds a permit pursuant to NRS 449.435 to 449.448, inclusive; (b) in a facility which holds a permit pursuant to NRS 449.435 to 449.448, inclusive; (c) in a medical facility as that term is defined in NRS 449.0151; or (d) outside of the State of Nevada.

32. For the purposes of NRS 630.373, "conscious sedation" means a minimally depressed level of consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, in which the patient retains the ability independently and continuously to maintain an airway and to respond appropriately to physical stimulation and verbal commands. NRS 449.436.

33. Pursuant to NRS 453.021, "administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by: (1) a practitioner or, in the practitioner's presence, by the practitioner's authorized agent; or (2) the patient or research subject at the direction and in the presence of the practitioner.

34. Pursuant to NRS 454.217, a person shall not inject a neuromodulator that is derived from Clostridium botulinum or is biosimilar to or the bioequivalent of such a neuromodulator unless (1) the person is a physician or physician assistant licensed pursuant to NRS Chapter 630, a qualified dentist licensed pursuant to NRS 631.391, a registered nurse or advanced practice registered nurse, a physician or physician assistant licensed pursuant to NRS Chapter 633, or a qualified podiatric physician to NRS 635.086, (2) it is within his or her scope of practice, and (3) the injection occurs at a location that is either a medical facility, as defined in NRS 449.0151, or at the office of a physician or physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, advanced practice registered nurse or podiatric physician.

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35. A person who violates any portion of NRS 454.217 is guilty of a misdemeanor. NRS 454.356

36. Pursuant to NRS 629.086, a person shall not inject dermal or soft tissue fillers unless (1) the person is a physician or physician assistant licensed pursuant to NRS Chapter 630, a qualified dentist licensed pursuant to NRS 631.391, a registered nurse or advanced practice registered nurse, a physician or physician assistant licensed pursuant to NRS Chapter 633, or a qualified podiatric physician to NRS 635.086, (2) it is within his or her scope of practice, and (3) the injection occurs at a location that is either a medical facility, as defined in NRS 449.0151, or at the office of a physician or physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, advanced practice registered nurse or podiatric physician.

37. A person who violates any portion of NRS 629.086 is guilty of a misdemeanor. NRS 629.086(3).

38. Pursuant to NRS 630.306(1)(u), the failure to comply with the provisions of NRS 454.217 or 629.086 is grounds for initiating disciplinary action against a physician.

39. NAC 630.301(9) provides that engaging in conduct that brings the medical profession into disrepute is grounds for initiating disciplinary action against a physician assistant.

III. RESPONDENT'S UNLICENSED PRACTICE OF MEDICINE AT VIDA SPA, MALPRACTICE, DISREPUTABLE CONDUCT AND RELATED VIOLATIONS OF THE NEVADA MEDICAL PRACTICE ACT.

40. Vida Spa LLC, a Nevada Limited Liability Company, formed July 22, 2016, managed by Gisselle Platfoot ("Vida Spa"), and also doing business as "Vida Spa" and "Vita Medical Spa Las Vegas," is a self-described "medical spa" located at 3225 S Rainbow Blvd #107 and/or #206, Las Vegas, NV 89146.

41. Vida Spa LLC, is licensed in Clark County, Nevada, under Clark County Business License No. 2003447.081-172, under the business category of "Cosmetology Establishment - Other Services." The owners listed under this license are Art Matrix, Inc. and Gisselle Platfoot.

42. Gisselle Platfoot, manager of Vida Spa LLC, at all times relevant to this complaint, did not hold a license to practice any healing art as a "provider of health care," as defined in NRS 629.031, from any occupational licensing board in the State of Nevada.

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43. Vida Spa is "a facility that provides health care, other than a medical facility" (NRS 449.442). Neither Respondent, Vida Spa, nor Gisselle Platfoot held, or currently holds, the requisite permit, pursuant to NRS 449.442, to perform general anesthesia, conscious sedation or deep sedation. Additionally neither Respondent, Vida Spa, nor Gisselle Platfoot held a current accreditation by a nationally recognized organization approved by the Nevada State Board of Health.

44. At all times relevant to this Complaint, Vida Spa was not a "medical facility," as defined in NRS 449.0151, and not "the office" of a physician or physician assistant licensed pursuant to NRS chapter 630 or 633, qualified dentist, advanced practice registered nurse or podiatric physician, as provided in NRS 454.217.

45. On March 24, 2021, the NSBOP issued a Citation and Order to Cease and Desist (Platfoot Citation) to Vida Spa LLC and Gisselle Platfoot, whereby the NSBOP determined that Vida Spa LLC and Gisselle Platfoot were possessing, administering, prescribing and/or dispensing controlled substances and/or dangerous drugs for Nevada patients from Vida Spa in violation of federal and state law. Specifically, the Platfoot Citation states that Vida Spa and Gisselle Platfoot did not have a dispensing registration and are therefore prohibited from possessing, dispensing and/or administering controlled substances and/or dangerous drugs. The Platfoot Citation finds that Vida Spa and Gisselle Platfoot violated, attempted to violate, assisted or abetted in the violation of or conspired to violate, without limitation, NRS 453.226, NRS 453.316, NRS 453.321(1)(a), NRS 453.331 (l)(c)(d)(t)&(i), NRS 453.381(1), NRS 453.40l(l)(a), NRS 639.0727, NRS 639.100(1), NRS 639.23505, NRS 639.281, NRS 639.2813, NRS 639.310, NAC 639.742, 21 U.S.C. § 822(a)(2), 21 U.S.C. § 823(f), 21 U.S.C. § 84l(a), 21 U.S.C. § 842(a), 21 U.S.C. § 846 and 21 CFR §§ 1306.03-1306.05. The Platfoot Citation orders Vida Spa LLC and Gisselle Platfoot, pursuant to NRS 639.2895(1), to immediately cease and desist possessing, administering, prescribing and/or dispensing controlled substances for Nevada patients, and also assessed an administrative fine of five thousand dollars ($5,000.00) pursuant to NRS 639.2895(3).

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A. Respondent's Treatment of Patient A Without a License

46. Patient A[2] was a fifty-seven (57) year-old female at the time of the events at issue.

47. At all times relevant to Respondent's treatment of Patient A, the so-called "medical director" of Vida Spa was Sherman Washington, Jr., M.D.

48. On October 9, 2019, Respondent, who did not have her own DEA registration and controlled substance license issued by the NSBOP, utilized the prescribing credentials of Sherman Washington, Jr., M.D., to issue fraudulent prescriptions to Patient A for Tramadol (a Schedule IV Controlled Substance) 50 mg tablets, 24 ct. for 3 days, and Diazepam (a Schedule IV Controlled Substance) 10 mg tablets, 8 ct. for 3 days; these prescriptions were called-in to the pharmacy by Respondent, or by a Vida Spa employee or agent acting at Respondent's direction, and the prescriptions were filled the same day.

49. Respondent instructed Patient A to take Schedule IV controlled substances in a manner that materially deviated from the issued prescriptions; Respondent instructed Patient A to take Tramadol 50mg, 2 tablets, and Diazepam 10 mg, 1 tablet, at 2:00 p.m., on October 10, 2019, for the purpose of conscious sedation for an invasive, surgical liposuction procedure Respondent planned to perform on Patient A at Vida Spa at 3:00 p.m. that day.

50. Respondent wrote the prescriptions for these controlled substances and instructed Patient A to deviate from the issued prescription in order to conceal the purpose of the medications, which was conscious sedation, and thereby to conceal a violation by Vida Spa of NRS 449.442(1)-(2).

51. Dr. Washington did not see or treat Patient A, did not direct or supervise Respondent in her treatment of Patient A, and did not specifically direct Respondent to issue prescriptions to Patient A.

52. On October 10, 2019, at Vida Spa, at approximately 3:00 p.m., Respondent performed a liposuction procedure on the arms of Patient A. Respondent administered tumescent anesthesia with Lidocaine and Epinephrine to Patient A, which Respondent obtained, without a

[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, along with identifying information for all other patients B through L referered to herein.

patient-specific prescription or an order from a licensed practitioner for Patient A, from a general store of controlled substances and dangerous drugs obtained and maintained by Vida Spa in violation of federal and state law.

53. Respondent was not supervised by any licensed physician while performing this invasive surgical procedure on Patient A at Vida Spa.

COUNT I

NRS 630.400(1)(d) – Unlicensed Practice of Medicine

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

55. Respondent practiced medicine without a license when she treated Patient A on October 9 and 10, 2019.

56. Respondent, having been previously disciplined by the Arizona Board and incarcerated in the State of Arizona for conduct related to her practice of medicine, having let her license to practice medicine in the State of Arizona expire while incarcerated, and as evidenced by her subsequent application to the Board for a license to practice medicine in the State of Nevada, among other evidence of scienter, Respondent's unlicensed practice of medicine in violation of NRS 630.400(1)(d) was knowing and willful.

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

COUNT II

NRS 630.301(4) - Malpractice

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

59. As demonstrated by, but not limited to, the above-outlined facts, Respondent committed malpractice when she failed to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when rendering medical services to Patient A, by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient A without first obtaining a license to practice medicine in the State of Nevada, by performing an

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invasive surgical procedure on Patient A, by administering tumescent anesthesia to Patient A utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients, by issuing fraudulent and illegal prescriptions for controlled substances to Patient A, by instructing Patient A to take controlled substances in a manner that materially deviated from the issued prescriptions in order to conceal the purpose of the medications, which was conscious sedation, and thereby to conceal an apparent violation by Vida Spa of NRS 449.442(1)-(2), and by treating Patient A without the direct supervision of a licensed physician.

60. 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)(h) – Fraudulent, Illegal, Unauthorized and Otherwise Inappropriate Prescribing of Schedule IV Controlled Substance

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

62. As demonstrated by, but not limited to, the above-outlined facts, Respondent issued fraudulent, illegal, unauthorized and otherwise inappropriate prescriptions for Schedule IV controlled substances, Tramadol and Diazepam, to Patient A by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient A without first obtaining a license to practice medicine in the State of Nevada, a DEA registration, and a controlled substance license issued by the NSBOP, by issuing fraudulent and illegal prescriptions for these controlled substances to Patient A, by instructing Patient A to take these controlled substances in a manner that materially deviated from the issued prescriptions in order to conceal the purpose of the medications, which was conscious sedation, and thereby to conceal an apparent violation by Vida Spa of NRS 449.442(1)-(2).

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

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COUNT IV

NRS 630.301(9) – Disreputable Conduct

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

65. Respondent engaged in conduct that brings the medical profession into disrepute by, among other misconduct, knowingly, willfully and feloniously practicing medicine without first obtaining a license to practice medicine in the State of Nevada, by performing an invasive surgical procedure on Patient A, by administering tumescent anesthesia to Patient A utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients, by issuing fraudulent and illegal prescriptions for Schedule IV controlled substances to Patient A, by instructing Patient A to take these controlled substances in a manner that materially deviated from the issued prescriptions in order to conceal the purpose of the medications, which was conscious sedation, and thereby to conceal an apparent violation by Vida Spa of NRS 449.442(1)-(2), and by treating Patient A without the direct supervision of a licensed physician.

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

B. Respondent's Treatment of Patient B Without a License

67. Patient B was a thirty-one (31) year-old female at the time of the events at issue.

68. At all times relevant to Respondent's treatment of Patient B, the so-called "medical director" of Vida Spa was Sherman Washington, Jr., M.D.

69. On October 7, 2019, Respondent, who did not have her own DEA registration and controlled substance license issued by the NSBOP, utilized the prescribing credentials of Sherman Washington, Jr., M.D., to issue fraudulent prescriptions to Patient B for Tramadol 50 mg tablets (a Schedule IV Controlled Substance), 20 ct. for 3 days, Promethazine 25 mg tablets, 12 ct. for 2 days, Sulfameth/Trimethprim 800/160 mg tablets, 20 ct. for 10 days; these prescriptions were called-in to the pharmacy by Respondent, or by a Vida Spa employee or agent acting at Respondent's direction, and the prescriptions were filled the same day.

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70. Dr. Washington did not see or treat Patient B, did not direct or supervise Respondent in her treatment of Patient B, and did not specifically direct Respondent to issue a prescription to Patient B.

71. On October 8, 2019, at Vida Spa, Respondent performed a liposuction procedure on the arms of Patient B. Respondent administered tumescent anesthesia with Lidocaine and Epinephrine to Patient B, which Respondent obtained, without a patient-specific prescription or an order from a licensed practitioner for Patient B, from a general store of controlled substances and dangerous drugs obtained and maintained by Vida Spa in violation of federal and state law.

72. Respondent was not supervised by any licensed physician while performing this invasive surgical procedure on Patient B at Vida Spa.

COUNT V

NRS 630.400(1)(d) – Unlicensed Practice of Medicine

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

74. Respondent practiced medicine without a license when she treated Patient B on October 7 and 8, 2019.

75. Respondent, having been previously disciplined by the Arizona Board and incarcerated in the State of Arizona for conduct related to her practice of medicine, having let her license to practice medicine in the State of Arizona expire while incarcerated, and as evidenced by her subsequent application to the Board for a license to practice medicine in the State of Nevada, among other evidence of scienter, Respondent's unlicensed practice of medicine in violation of NRS 630.400(1)(d) was knowing and willful.

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

COUNT VI

NRS 630.301(4) - Malpractice

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

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78. As demonstrated by, but not limited to, the above-outlined facts, Respondent committed malpractice when she failed to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when rendering medical services to Patient B, by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient B without first obtaining a license to practice medicine in the State of Nevada, by performing an invasive surgical procedure on Patient B, by administering tumescent anesthesia to Patient B utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients, by issuing a fraudulent and illegal prescription for a controlled substances to Patient B, and by treating Patient B without the direct supervision of a licensed physician.

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

COUNT VII

NRS 630.3062(1)(h) – Fraudulent, Illegal, Unauthorized and Otherwise Inappropriate Prescribing of Schedule IV Controlled Substance

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

81. As demonstrated by, but not limited to, the above-outlined facts, Respondent issued a fraudulent, illegal, unauthorized and otherwise inappropriate prescription for a Schedule IV controlled substances, Tramadol, to Patient B by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient B without first obtaining a license to practice medicine in the State of Nevada, a DEA registration, and a controlled substance license issued by the NSBOP, and by issuing a fraudulent and illegal prescription for a Schedule IV controlled substances to Patient B.

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

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COUNT VIII

NRS 630.301(9) – Disreputable Conduct

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

84. Respondent engaged in conduct that brings the medical profession into disrepute by, among other misconduct, knowingly, willfully and feloniously practicing medicine without first obtaining a license to practice medicine in the State of Nevada, and by performing an invasive surgical procedure on Patient B, by administering tumescent anesthesia to Patient B utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients, by issuing a fraudulent and illegal prescription for a Schedule IV controlled substances to Patient B, and by treating Patient B without the direct supervision of a licensed physician.

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

C. Respondent's Treatment of Patient C Without a License

86. Patient C was a forty-three (43) year-old female at the time of the events at issue.

87. At all times relevant to Respondent's treatment of Patient C, the so-called "medical director" of Vida Spa was Sherman Washington, Jr., M.D.

88. On October 9, 2019, Respondent, who did not have her own DEA registration and controlled substance license issued by the NSBOP, utilized the prescribing credentials of Sherman Washington, Jr., M.D., to issue fraudulent prescriptions to Patient C for Tramadol (a Schedule IV Controlled Substance) 50 mg tablets, 24 ct. for 3 days, Diazepam (a Schedule IV Controlled Substance) 10 mg tablets, 12 ct. for 4 days, Promethazine 25 mg tablets, 20 ct for 5 days, and Sulfameth/Trimethprim 800/160 mg tablets, 20 ct. for 10 days; these prescriptions were called-in to the pharmacy by Respondent, or by a Vida Spa employee or agent acting at Respondent's direction, and the prescriptions were filled the same day.

89. Respondent instructed Patient C to take the Schedule IV controlled substances in a manner that materially deviated from the issued prescriptions; Respondent instructed Patient C to

take Tramadol 50mg, 2 tablets, and Diazepam 10 mg, 1 tablet, one hour in advance an invasive, surgical liposuction procedure Respondent planned to perform on Patient C at Vida Spa on October 9, 2019, for the purpose of conscious sedation.

90. Respondent wrote the prescriptions for these controlled substances and instructed Patient C to deviate from the issued prescription in order to conceal the purpose of the medications, which was conscious sedation, and thereby to conceal an apparent violation by Vida Spa of NRS 449.442(1)-(2).

91. Dr. Washington did not see or treat Patient C, did not direct or supervise Respondent in her treatment of Patient C, and did not specifically direct Respondent to issue prescriptions to Patient C.

92. On October 9, 2019, at Vida Spa, Respondent performed a liposuction procedure on the arms of Patient C. Respondent administered tumescent anesthesia with Lidocaine and Epinephrine to Patient C, which Respondent obtained, without a patient-specific prescription or an order from a licensed practitioner for Patient C, from a general store of controlled substances and dangerous drugs obtained and maintained by Vida Spa in violation of federal and state law.

93. Respondent was not supervised by any licensed physician while performing this invasive surgical procedure on Patient C at Vida Spa.

COUNT IX

NRS 630.400(1)(d) – Unlicensed Practice of Medicine

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

95. Respondent practiced medicine without a license when she treated Patient C on October 9, 2019.

96. Respondent, having been previously disciplined by the Arizona Board and incarcerated in the State of Arizona for conduct related to her practice of medicine, having let her license to practice medicine in the State of Arizona expire while incarcerated, and as evidenced by her subsequent application to the Board for a license to practice medicine in the State of Nevada,

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among other evidence of scienter, Respondent's unlicensed practice of medicine in violation of NRS 630.400(1)(d) was knowing and willful.

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

COUNT X

NRS 630.301(4) - Malpractice

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

99. As demonstrated by, but not limited to, the above-outlined facts, Respondent committed malpractice when she failed to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when rendering medical services to Patient C, by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient C without first obtaining a license to practice medicine in the State of Nevada, by performing an invasive surgical procedure on Patient C, by administering tumescent anesthesia to Patient C utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients, by issuing fraudulent and illegal prescriptions for controlled substances to Patient C, by instructing Patient C to take controlled substances in a manner that materially deviated from the issued prescriptions in order to conceal the purpose of the medications, which was conscious sedation, and thereby to conceal an apparent violation by Vida Spa of NRS 449.442(1)-(2), and by treating Patient C without the direct supervision of a licensed physician.

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

COUNT XI

NRS 630.3062(1)(h) – Fraudulent, Illegal, Unauthorized and Otherwise Inappropriate Prescribing of Schedule IV Controlled Substance

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

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102. As demonstrated by, but not limited to, the above-outlined facts, Respondent issued fraudulent, illegal, unauthorized and otherwise inappropriate prescriptions for Schedule IV controlled substances, Tramadol and Diazepam, to Patient C by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient C without first obtaining a license to practice medicine in the State of Nevada, a DEA registration, and a controlled substance license issued by the NSBOP, by issuing fraudulent and illegal prescriptions for these controlled substances to Patient C, by instructing Patient C to take these controlled substances in a manner that materially deviated from the issued prescriptions in order to conceal the purpose of the medications, which was conscious sedation, and thereby to conceal an apparent violation by Vida Spa of NRS 449.442(1)-(2).

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

COUNT XII

NRS 630.301(9) – Disreputable Conduct

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

105. Respondent engaged in conduct that brings the medical profession into disrepute by, among other misconduct, knowingly, willfully and feloniously practicing medicine without first obtaining a license to practice medicine in the State of Nevada, by performing an invasive surgical procedure on Patient C, by administering tumescent anesthesia to Patient C utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients, by issuing fraudulent and illegal prescriptions for Schedule IV controlled substances to Patient C, by instructing Patient C to take these controlled substances in a manner that materially deviated from the issued prescriptions in order to conceal the purpose of the medications, which was conscious sedation, and thereby to conceal an apparent violation by Vida Spa of NRS 449.442(1)-(2), and by treating Patient C without the direct supervision of a licensed physician.

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

D. Respondent's Treatment of Patient D Without a License

107. Patient D was a twenty-two (22) year-old female at the time of the events at issue.

108. At all times relevant to Respondent's treatment of Patient D, the so-called "medical director" of Vida Spa was Sherman Washington, Jr., M.D.

109. On October 12, 2019, Respondent, who did not have her own DEA registration and controlled substance license issued by the NSBOP, utilized the prescribing credentials of Sherman Washington, Jr., M.D., to issue fraudulent prescriptions to Patient D for Tramadol (a Schedule IV Controlled Substance) 50 mg tablets, 24 ct. for 3 days and Diazepam (a Schedule IV Controlled Substance) 10 mg tablets, 8 ct. for 3 days; on information and belief, these prescriptions were called-in to the pharmacy by Respondent, or by a Vida Spa employee or agent acting at Respondent's direction, and the prescriptions were filled the same day.

110. On information and belief, Respondent instructed Patient D to take the Schedule IV controlled substances in a manner that materially deviated from the issued prescriptions; Respondent instructed Patient D to take Tramadol 50mg, 2 tablets, and Diazepam 10 mg, 1 tablet, one hour in advance an invasive, surgical liposuction procedure Respondent planned to perform on Patient D at Vida Spa on October 13, 2019, for the purpose of conscious sedation.

111. On information and belief, Respondent wrote the prescriptions for these controlled substances and instructed Patient D to deviate from the issued prescription in order to conceal the purpose of the medications, which was conscious sedation, and thereby to conceal an apparent violation by Vida Spa of NRS 449.442(1)-(2).

112. Dr. Washington did not see or treat Patient D, did not direct or supervise Respondent in her treatment of Patient D, and did not specifically direct Respondent to issue prescriptions to Patient D.

113. On October 13, 2019, at Vida Spa, Respondent performed a liposuction procedure on the abdomen and medial inferior upper arms of Patient D. Respondent administered tumescent anesthesia with Lidocaine and Epinephrine to Patient D, which Respondent obtained, without a

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patient-specific prescription or an order from a licensed practitioner for Patient D, from a general store of controlled substances and dangerous drugs obtained and maintained by Vida Spa in violation of federal and state law.

114. Respondent was not supervised by any licensed physician while performing this invasive surgical procedure on Patient D at Vida Spa.

COUNT XIII

NRS 630.400(1)(d) – Unlicensed Practice of Medicine

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

116. Respondent practiced medicine without a license when she treated Patient D on October 12 and 13, 2019.

117. Respondent, having been previously disciplined by the Arizona Board and incarcerated in the State of Arizona for conduct related to her practice of medicine, having let her license to practice medicine in the State of Arizona expire while incarcerated, and as evidenced by her subsequent application to the Board for a license to practice medicine in the State of Nevada, among other evidence of scienter, Respondent's unlicensed practice of medicine in violation of NRS 630.400(1)(d) was knowing and willful.

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

COUNT XIV

NRS 630.301(4) - Malpractice

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

120. As demonstrated by, but not limited to, the above-outlined facts, Respondent committed malpractice when she failed to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when rendering medical services to Patient D, by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient D without first obtaining a license to practice medicine in the State of Nevada, by performing an

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invasive surgical procedure on Patient D, by administering tumescent anesthesia to Patient D utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients, by issuing fraudulent and illegal prescriptions for controlled substances to Patient D, by instructing Patient D to take controlled substances in a manner that materially deviated from the issued prescriptions in order to conceal the purpose of the medications, which was conscious sedation, and thereby to conceal an apparent violation by Vida Spa of NRS 449.442(1)-(2), and by treating Patient D without the direct supervision of a licensed physician.

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

COUNT XV

NRS 630.3062(1)(h) – Fraudulent, Illegal, Unauthorized and Otherwise Inappropriate Prescribing of Schedule IV Controlled Substance

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

123. As demonstrated by, but not limited to, the above-outlined facts, Respondent issued fraudulent, illegal, unauthorized and otherwise inappropriate prescriptions for Schedule IV controlled substances, Tramadol and Diazepam, to Patient D by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient D without first obtaining a license to practice medicine in the State of Nevada, a DEA registration, and a controlled substance license issued by the NSBOP, by issuing fraudulent and illegal prescriptions for these controlled substances to Patient D, by instructing Patient D to take these controlled substances in a manner that materially deviated from the issued prescriptions in order to conceal the purpose of the medications, which was conscious sedation, and thereby to conceal an apparent violation by Vida Spa of NRS 449.442(1)-(2).

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

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COUNT XVI

NRS 630.301(9) – Disreputable Conduct

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

126. Respondent engaged in conduct that brings the medical profession into disrepute by, among other misconduct, knowingly, willfully and feloniously practicing medicine without first obtaining a license to practice medicine in the State of Nevada, and by performing an invasive surgical procedure on Patient D, administering tumescent anesthesia to Patient D utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients, issuing fraudulent prescriptions for controlled substances to Patient D, violating and attempting to conceal violations of NRS 449.442(1)-(2), and 21 CFR §1306.04(a)-(b) and NRS 453.381, and treating Patient D without the direct supervision of a licensed physician.

E. Respondent's Treatment of Patient E Without a License

127. Patient E was a thirty-three (33) year-old female at the time of the events at issue

128. At all times relevant to Respondent's treatment of Patient E, the so-called "medical director" of Vida Spa was Sherman Washington, Jr., M.D.

129. On October 8, 2019, Respondent, who did not have her own DEA registration and controlled substance license issued by the NSBOP, utilized the prescribing credentials of Sherman Washington, Jr., M.D., to issue a fraudulent prescription to Patient E for Tramadol (a Schedule IV Controlled Substance) 50 mg tablets, 20 ct. for 4 days, which prescription was filled the same day.

130. Dr. Washington did not see or treat Patient E, did not direct or supervise Respondent in her treatment of Patient E, and did not specifically direct Respondent to issue a prescription to Patient E.

131. On October 8, 2019, at Vida Spa, Respondent performed a liposuction procedure on the arms of Patient E. Respondent administered tumescent anesthesia with Lidocaine and Epinephrine to Patient E, which Respondent obtained, without a patient-specific prescription or an order from a licensed practitioner for Patient E, from a general store of controlled substances and

dangerous drugs obtained and maintained by Vida Spa in violation of federal and state law.

132. Respondent was not supervised by any licensed physician while performing this invasive surgical procedure on Patient E at Vida Spa.

COUNT XVII

NRS 630.400(1)(d) – Unlicensed Practice of Medicine

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

134. Respondent practiced medicine without a license when she treated Patient E on October 7 and 8, 2019.

135. Respondent, having been previously disciplined by the Arizona Board and incarcerated in the State of Arizona for conduct related to her practice of medicine, having let her license to practice medicine in the State of Arizona expire while incarcerated, and as evidenced by her subsequent application to the Board for a license to practice medicine in the State of Nevada, among other evidence of scienter, Respondent's unlicensed practice of medicine in violation of NRS 630.400(1)(d) was knowing and willful.

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

COUNT XVIII

NRS 630.301(4) - Malpractice

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

138. As demonstrated by, but not limited to, the above-outlined facts, Respondent committed malpractice when she failed to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when rendering medical services to Patient E, by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient E without first obtaining a license to practice medicine in the State of Nevada, by performing an invasive surgical procedure on Patient E, by administering tumescent anesthesia to Patient E utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous

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drugs used for general administration and dispensing to patients, by issuing a fraudulent and illegal prescription for a controlled substances to Patient E, and by treating Patient E without the direct supervision of a licensed physician.

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

COUNT XIX

NRS 630.3062(1)(h) – Fraudulent, Illegal, Unauthorized and Otherwise Inappropriate Prescribing of Schedule IV Controlled Substance

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

141. As demonstrated by, but not limited to, the above-outlined facts, Respondent issued a fraudulent, illegal, unauthorized and otherwise inappropriate prescription for a Schedule IV controlled substances, Tramadol, to Patient E by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient E without first obtaining a license to practice medicine in the State of Nevada, a DEA registration, and a controlled substance license issued by the NSBOP, and by issuing a fraudulent and illegal prescription for a Schedule IV controlled substances to Patient E.

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

COUNT XX

NRS 630.301(9) – Disreputable Conduct

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

144. Respondent engaged in conduct that brings the medical profession into disrepute by, among other misconduct, knowingly, willfully and feloniously practicing medicine without first obtaining a license to practice medicine in the State of Nevada, and by performing an invasive surgical procedure on Patient E, by administering tumescent anesthesia to Patient E utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous

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drugs used for general administration and dispensing to patients, by issuing a fraudulent and illegal prescription for a Schedule IV controlled substances to Patient E, and by treating Patient E without the direct supervision of a licensed physician.

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

F. Respondent's Treatment of Patient F Without a License

146. Patient F was a male of unknown age at the time of the events at issue.

147. At all times relevant to Respondent's treatment of Patient F, the so-called "medical director" of Vida Spa was Sherman Washington, Jr., M.D.

148. On October 24, 2019, Respondent obtained, without a patient-specific prescription or an order from a licensed practitioner for Patient F, "Botox," a neuromodulator that is derived from Clostridium botulinum or is biosimilar to or the bioequivalent of such a neuromodulator, and "Versa," a hyaluronic acid dermal filler, both of which are dangerous drugs as defined by NRS 454.201, from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients.

149. Dr. Washington did not see or treat Patient F, and did not direct or supervise Respondent in her treatment of Patient F.

150. On October 24, 2019, at Vida Spa, Respondent injected, and thereby administered pursuant to NRS 454.191, the aforementioned Botox and Versa into various locations on the face of Patient F.

151. Respondent was not supervised by any licensed physician while performing this injection procedure on Patient F at Vida Spa.

COUNT XXI

NRS 630.306(1)(u) – Illegal Injection of Botox

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

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153. As demonstrated by, but not limited to, the above-outlined facts, Respondent injected Botox into the face of Patient F in violation of NRS 629.086 when she did so without a license to practice any form of medicine pursuant to NRS Chapter 630, NRS 631.391, NRS Chapter 633, or NRS 635.086, and at a location that is neither a medical facility, as defined in NRS 449.0151, nor at the office of a physician or physician assistant, licensed pursuant to NRS Chapters 630 or 633, dentist, advanced practice registered nurse or podiatric physician.

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

COUNT XXII

NRS 630.306(1)(u) – Illegal Injection of Versa

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

156. As demonstrated by, but not limited to, the above-outlined facts, Respondent injected Versa into the face of Patient F in violation of NRS 454.217 when she did so without a license to practice any form of medicine pursuant to NRS Chapter 630, NRS 631.391, NRS Chapter 633, or NRS 635.086, and at a location that is neither a medical facility, as defined in NRS 449.0151, nor at the office of a physician or physician assistant, licensed pursuant to NRS Chapters 630 or 633, dentist, advanced practice registered nurse or podiatric physician.

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

COUNT XXIII

NRS 630.400(1)(d) – Unlicensed Practice of Medicine

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

159. Respondent practiced medicine without a license when she treated Patient F on October 24, 2019.

160. Respondent, having been previously disciplined by the Arizona Board and incarcerated in the State of Arizona for conduct related to her practice of medicine, having let her

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license to practice medicine in the State of Arizona expire while incarcerated, and as evidenced by her subsequent application to the Board for a license to practice medicine in the State of Nevada, among other evidence of scienter, Respondent's unlicensed practice of medicine in violation of NRS 630.400(1)(d) was knowing and willful.

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

COUNT XXIV

NRS 630.301(4) - Malpractice

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

163. As demonstrated by, but not limited to, the above-outlined facts, Respondent committed malpractice when she failed to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when rendering medical services to Patient F, by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient F without first obtaining a license to practice medicine in the State of Nevada, and by obtaining, without a patient-specific prescription or an order from a licensed practitioner for Patient F, dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs, and by injecting Botox and Versa into the face of Patient F in violation of NRS 629.086 and NRS 454.217, respectively, and by treating Patient F without the direct supervision of a licensed physician.

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

COUNT XXV

NRS 630.301(9) – Disreputable Conduct

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

166. Respondent engaged in conduct that brings the medical profession into disrepute by, among other misconduct, knowingly, willfully and feloniously practicing medicine with

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respect to Patient F without first obtaining a license to practice medicine in the State of Nevada, and by obtaining, without a patient-specific prescription or an order from a licensed practitioner for Patient F, dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs, and by injecting Botox and Versa into the face of Patient F in violation of NRS 629.086 and NRS 454.217, respectively, and by treating Patient F without the direct supervision of a licensed physician.

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

G. Respondent's Treatment of Patient G Without a License

168. Patient G was a sixty-six (66) year-old female at the time of the events at issue.

169. At all times relevant to Respondent's treatment of Patient G, the so-called "medical director" of Vida Spa was Sherman Washington, Jr., M.D.

170. On October 29, 2019, Respondent obtained, without a patient-specific prescription or an order from a licensed practitioner for Patient G, "Xeomin," a neuromodulator that is derived from Clostridium botulinum or is biosimilar to or the bioequivalent of such a neuromodulator, and "Versa," a hyaluronic acid dermal filler, both of which are dangerous drugs as defined by NRS 454.201, from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients.

171. Dr. Washington did not see or treat Patient G, did not direct or supervise Respondent in her treatment of Patient G.

172. On October 24, 2019, at Vida Spa, Respondent injected, and thereby administered pursuant to NRS 454.191, the aforementioned Xeomin and Versa into various locations on the face of Patient G.

173. Respondent was not supervised by any licensed physician while performing this injection procedure on Patient G at Vida Spa.

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COUNT XXVI

NRS 630.306(1)(u) – Illegal Injection of Xeomin

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

175. As demonstrated by, but not limited to, the above-outlined facts, Respondent injected Xeomin into the face of Patient G in violation of NRS 629.086 when she did so without a license to practice any form of medicine pursuant to NRS Chapter 630, NRS 631.391, NRS Chapter 633, or NRS 635.086, and at a location that is neither a medical facility, as defined in NRS 449.0151, nor at the office of a physician or physician assistant, licensed pursuant to NRS Chapters 630 or 633, dentist, advanced practice registered nurse or podiatric physician.

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

COUNT XXVII

NRS 630.306(1)(u) – Illegal Injection of Versa

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

178. As demonstrated by, but not limited to, the above-outlined facts, Respondent injected Versa into the face of Patient G in violation of NRS 454.217 when she did so without a license to practice any form of medicine pursuant to NRS Chapter 630, NRS 631.391, NRS Chapter 633, or NRS 635.086, and at a location that is neither a medical facility, as defined in NRS 449.0151, nor at the office of a physician or physician assistant, licensed pursuant to NRS Chapters 630 or 633, dentist, advanced practice registered nurse or podiatric physician.

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

COUNT XXVIII

NRS 630.400(1)(d) – Unlicensed Practice of Medicine

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

181. Respondent practiced medicine without a license when she treated Patient G on October 29, 2019.

182. Respondent, having been previously disciplined by the Arizona Board and incarcerated in the State of Arizona for conduct related to her practice of medicine, having let her license to practice medicine in the State of Arizona expire while incarcerated, and as evidenced by her subsequent application to the Board for a license to practice medicine in the State of Nevada, among other evidence of scienter, Respondent's unlicensed practice of medicine in violation of NRS 630.400(1)(d) was knowing and willful.

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

COUNT XXIX

NRS 630.301(4) - Malpractice

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

185. As demonstrated by, but not limited to, the above-outlined facts, Respondent committed malpractice when she failed to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when rendering medical services to Patient G, by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient G without first obtaining a license to practice medicine in the State of Nevada, and by obtaining, without a patient-specific prescription or an order from a licensed practitioner for Patient G, dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs, and by injecting Xeomin and Versa into the face of Patient G in violation of NRS 629.086 and NRS 454.217, respectively, and by treating Patient G without the direct supervision of a licensed physician.

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

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COUNT XXX

NRS 630.301(9) – Disreputable Conduct

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

188. Respondent engaged in conduct that brings the medical profession into disrepute by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient G without first obtaining a license to practice medicine in the State of Nevada, and by obtaining, without a patient-specific prescription or an order from a licensed practitioner for Patient G, dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs, and by injecting Xeomin and Versa into the face of Patient G in violation of NRS 629.086 and NRS 454.217, respectively, and by treating Patient G without the direct supervision of a licensed physician.

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

H. Respondent's Treatment of Patient H Without a License

190. Patient H was a forty-two (42) year-old person of unknown gender at the time of the events at issue.

191. At all times relevant to Respondent's treatment of Patient H, Vida Spa had no so-called "medical director," the directorship of Dr. Sherman Washington having terminated on November 1, 2019.

192. At all times relevant to Respondent's treatment of Patient H, the only parties responsible for Vida Spa's activities with respect to Patient H were Respondent and, on information and belief, the parties listed on Clark County Business License No. 2003447.081-172, under the business category of "Cosmetology Establishment - Other Services," the owners of Vida Spa: Art Matrix, Inc. and Gisselle Platfoot.

193. On November 5, 2019 obtained, without a patient-specific prescription or an order from a licensed practitioner for Patient H, "Versa," a hyaluronic acid dermal filler, a dangerous

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drug as defined by NRS 454.201, from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients.

194. On November 5, 2019, at Vida Spa, Respondent injected, and thereby administered pursuant to NRS 454.191, the aforementioned Versa into various locations on the face of Patient H.

195. Respondent was not supervised by any licensed physician while performing this injection procedure on Patient H at Vida Spa.

COUNT XXXI

NRS 630.306(1)(u) – Illegal Injection of Versa

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

197. As demonstrated by, but not limited to, the above-outlined facts, Respondent injected Versa into the face of Patient H in violation of NRS 454.217 when she did so without a license to practice any form of medicine pursuant to NRS Chapter 630, NRS 631.391, NRS Chapter 633, or NRS 635.086, and at a location that is neither a medical facility, as defined in NRS 449.0151, nor at the office of a physician or physician assistant, licensed pursuant to NRS Chapters 630 or 633, dentist, advanced practice registered nurse or podiatric physician.

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

COUNT XXXII

NRS 630.400(1)(d) – Unlicensed Practice of Medicine

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

200. Respondent practiced medicine without a license when she treated Patient H on November 5, 2019.

201. Respondent, having been previously disciplined by the Arizona Board and incarcerated in the State of Arizona for conduct related to her practice of medicine, having let her license to practice medicine in the State of Arizona expire while incarcerated, and as evidenced by

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her subsequent application to the Board for a license to practice medicine in the State of Nevada, among other evidence of scienter, Respondent's unlicensed practice of medicine in violation of NRS 630.400(1)(d) was knowing and willful.

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

COUNT XXXIII

NRS 630.301(4) - Malpractice

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

204. As demonstrated by, but not limited to, the above-outlined facts, Respondent committed malpractice when she failed to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when rendering medical services to Patient H, by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient H without first obtaining a license to practice medicine in the State of Nevada, and by obtaining, without a patient-specific prescription or an order from a licensed practitioner for Patient H, dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs, and by injecting Versa into the face of Patient H in violation of NRS 454.217, and by treating Patient H without the direct supervision of a licensed physician.

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

COUNT XXXIV

NRS 630.301(9) – Disreputable Conduct

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

207. Respondent engaged in conduct that brings the medical profession into disrepute by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient H, by, among other misconduct, knowingly, willfully and feloniously practicing medicine with respect to Patient H without first obtaining a license to practice medicine in the

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State of Nevada, and by obtaining, without a patient-specific prescription or an order from a licensed practitioner for Patient H, dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs, and by injecting Versa into the face of Patient H in violation of NRS 454.217, and by treating Patient H without the direct supervision of a licensed physician.

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

IV. RESPONDENT'S FRAUD IN OBTAINING LICENSURE

COUNT XXXV

NRS 630.304(1) – Fraud and Misrepresentation in Obtaining a License

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

210. As demonstrated by, but not limited to, the above-outlined facts, Respondent obtained a license to practice medicine by fraud, misrepresentation and false, misleading, inaccurate and incomplete statements when, on March 6, 2020, in a public meeting of the Board, when the Board was considering her application for licensure as a physician assistant in the State of Nevada, in open session, Respondent informed the Board that she had not practiced clinical medicine since she had been incarcerated, and stated that, though she had secured a job at a medical spa, and planned in the future to perform plastic surgery injections, in-office procedures, excisions, and assisting with different procedures, nevertheless, she had not done so yet and the aforementioned job offer was contingent upon her obtaining a license in Nevada.

211. As demonstrated by, but not limited to, the above-outlined facts, Respondent's statements to the Board on March 6, 2020, were materially false and Respondent knew they were materially false when she made the statements.

212. As demonstrated by, but not limited to, the above-outlined facts, Respondent's statements to the Board on March 6, 2020, were knowing misrepresentations of the truth and made to conceal material facts that would have prevented her from obtaining licensure.

213. As demonstrated by, but not limited to, the above-outlined facts, Respondent's statements to the Board on March 6, 2020, were intentionally misleading, and made to induce the

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Board to act to the detriment of the public safety by issuing her a license to practice medicine, despite the fact that she had already been knowingly, willingly, feloniously practicing medicine without a license.

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

V. RESPONDENT'S PERFORMANCE OF MEDICAL SERVICES WITHOUT A SUPERVISING PHYSICIAN, ADMINISTRATION OF CONSCIOUS SEDATION AT VIDA SPA, AN UNPERMITTED AND UNACCREDITED FACILITY PURSUANT TO NRS 449.442, AND RELATED VIOLATIONS OF THE NEVADA MEDICAL PRACTICE ACT

I. Respondent's Treatment of Patient I

215. Patient I was a twenty-nine (29) year-old female at the time of the events at issue.

216. At all times relevant to Respondent's treatment of Patient I, the so-called "medical director" of Vida Spa was Salvador Borromeo, III, M.D.

217. At all times relevant to Respondent's treatment of Patient I, Respondent did not have a supervising physician, and did not have a supervising physician agreement on file with and accepted by the Board, and was therefore expressly prohibited from performing medical services pursuant to NAC 630.375(2).

218. The medical services rendered to Patient I by Respondent did not occur in a life-threatening or emergency situation.

219. On June 1, 2020, Respondent, who did not have her own DEA registration and controlled substance license issued by the NSBOP, utilized the prescribing credentials of Salvador Borromeo, III, M.D., to issue prescriptions to Patient I for Oxycodone-acetaminophen (a Schedule II Controlled Substance) 5-325 mg tablets, 12 ct. for 3 days; Alprazolam (a Schedule IV Controlled Substance) 1 mg tablets, 4 ct. for 2 days; Promethazine 25 mg tablets, 10 ct. for 2 days, Sulfameth/Trimethprim 800/160 mg tablets, 20 ct. for 10 days.

220. Respondent issued prescriptions for these controlled substances and dangerous drugs by using the pre-printed prescription pad of Salvador Borromeo, III, M.D., which contained his pre-printed DEA number; the prescription was completed by Respondent, or by a Vida Spa employee or agent acting at Respondent's direction, with Patient I's name and with the

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corresponding medications, quantities and doses. Respondent, or a Vida Spa employee or agent acting at Respondent's direction, presented the prescription to Dr. Borromeo, who then signed the prescription with the understanding that the controlled substances and dangerous drugs would then be used by Respondent on Patient I for the purpose of performing an invasive surgical procedure on Patient I.

221. The material purpose for prescribing the controlled substances to Patient I was conscious sedation and pain control for an invasive surgical procedure to be performed on Patient I.

222. Dr. Borromeo's express purpose in signing the already completed written prescriptions for controlled substances for Patient I was for conscious sedation and pain control for invasive surgical procedure to be performed on Patient I.

223. The written prescription issued for Patient I in this manner was then presented to Pharmacy Santa Maria, at 3827 E. Sunset Rd, Ste L, Las Vegas, Nevada 89120, which filled the prescription, and the controlled substances and dangerous drugs were then delivered directly to Vida Spa. The controlled substances and dangerous drugs were accepted at Vida Spa by Respondent, or by a Vida Spa employee or agent acting at Respondent's direction, and then administered to Patient I by Respondent, or by a Vida Spa employee or agent supervised directly by Respondent.

224. Respondent, a Vida Spa employee or agent acting at Respondent's direction in the Respondent's presence, or Patient I at the direction and in the presence of Respondent, directly administered to Patient I the controlled substances, Alprazolam and Oxycodone-acetominophen, by ingestion.

225. Dr. Borromeo did not see or treat Patient I, and did not direct or supervise Respondent in her treatment of Patient I.

226. On June 2, 2020, at Vida Spa, Respondent performed a liposuction procedure on the upper and lower abdomen and arms of Patient I, and a fat grafting procedure to Patient I's breasts. Respondent administered tumescent anesthesia with Lidocaine and Epinephrine to Patient I, which Respondent obtained, without a patient-specific prescription or an order from a

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licensed practitioner or a practitioner otherwise authorized to perform medical services for Patient I, from a general store of controlled substances and dangerous drugs obtained and maintained by Vida Spa in violation of federal and state law.

227. Respondent was not supervised by any licensed physician while performing this invasive surgical procedure on Patient I at Vida Spa.

COUNT XXXVI

NAC 630.380(1)(c) – Performing Medical Services Without A Supervising Physician

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

229. Respondent performed medical services without the direction and supervision of a supervising physician, and in a non-emergency and non-life-threatening situation, when she treated Patient I on June 1 and 2, 2020.

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

COUNT XXXVII

NRS 630.301(4) - Malpractice

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

232. As demonstrated by, but not limited to, the above-outlined facts, Respondent committed malpractice when she failed to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when rendering medical services to Patient I by performing an invasive surgical procedure on Patient I without the direction and supervision of a supervising physician, by administering tumescent anesthesia to Patient I utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients without a patient-specific prescription or an order from a licensed practitioner or a practitioner otherwise authorized to perform medical services for Patient I, by administering or directly supervising the administration of conscious sedation to Patient I, which is a violation of NRS 630.373 and an apparent violation by Vida Spa of NRS 449.442(1)-(2).

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

COUNT XXXVIII

NRS 630.306(1)(o) – Administration of Conscious Sedation at an Unaccredited and Unpermitted Facility

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

235. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed to comply with NRS 630.373 when rendering medical services to Patient I, by, among other misconduct, administering and/or supervising directly the administration of conscious sedation to Patient I for an invasive surgical procedure that Respondent performed on Patient I at Vida Spa, which is not the office of a physician or osteopathic physician which holds a permit pursuant to NRS 449.435 to 449.448, inclusive, not a facility which holds a permit pursuant to NRS 449.435 to 449.448, inclusive, and not a medical facility as that term is defined in NRS 449.0151, and which is located inside the State of Nevada.

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

COUNT XXXIX

NRS 630.301(9) – Disreputable Conduct

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

238. Respondent engaged in conduct that brings the medical profession into disrepute by, among other misconduct, by performing an invasive surgical procedure on Patient I without the direction and supervision of a supervising physician, by administering tumescent anesthesia to Patient I utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients without a patient-specific prescription or an order from a licensed practitioner or a practitioner otherwise authorized to perform medical services for Patient I, by administering or directly supervising the

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administration of conscious sedation to Patient I, which is a violation of NRS 630.373 and an apparent violation by Vida Spa of NRS 449.442(1)-(2).

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

J. Respondent's Treatment of Patient J

240. Patient J was a forty (40) year-old female at the time of the events at issue.

241. At all times relevant to Respondent's treatment of Patient J, the so-called "medical director" of Vida Spa was Salvador Borromeo, III, M.D.

242. At all times relevant to Respondent's treatment of Patient J, Respondent did not have a supervising physician, and did not have a supervising physician agreement on file with and accepted by the Board, and was therefore expressly prohibited from performing medical services pursuant to NAC 630.375(2).

243. The medical services rendered to Patient J by Respondent did not occur in a life-threatening or emergency situation.

244. On June 2, 2020, Respondent, who did not have her own DEA registration and controlled substance license issued by the NSBOP, utilized the prescribing credentials of Salvador Borromeo, III, M.D., to issue prescriptions to Patient J for Oxycodone-acetaminophen (a Schedule II Controlled Substance) 5-325 mg tablets, 12 ct. for 3 days; Alprazolam (a Schedule IV Controlled Substance) 1 mg tablets, 4 ct. for 2 days; Promethazine 25 mg tablets, 10 ct. for 2 days, Sulfameth/Trimethprim 800/160 mg tablets, 20 ct. for 10 days.

245. Respondent issued prescriptions for these controlled substances and dangerous drugs by using the pre-printed prescription pad of Salvador Borromeo, III, M.D., which contained his pre-printed DEA number; the prescription was completed by Respondent, or by a Vida Spa employee or agent acting at Respondent's direction, with Patient J's name and with the corresponding medications, quantities and doses. Respondent, or a Vida Spa employee or agent acting at Respondent's direction, presented the prescription to Dr. Borromeo, who then signed the prescription with the understanding that the controlled substances and dangerous drugs

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would then be used by Respondent on Patient J for the purpose of performing an invasive surgical procedure on Patient J.

246. The material purpose for prescribing the controlled substances to Patient J was conscious sedation and pain control for an invasive surgical procedure to be performed on Patient J.

247. Dr. Borromeo's express purpose in signing the already completed written prescriptions for controlled substances for Patient J was for conscious sedation and pain control for invasive surgical procedure to be performed on Patient J.

248. The written prescription issued for Patient J in this manner was then presented to Pharmacy Santa Maria, at 3827 E. Sunset Rd, Ste L, Las Vegas, Nevada 89120, which filled the prescription, and the controlled substances and dangerous drugs were then delivered directly to Vida Spa. The controlled substances and dangerous drugs were accepted at Vida Spa by Respondent, or by a Vida Spa employee or agent acting at Respondent's direction, and then administered to Patient J by Respondent, or by a Vida Spa employee or agent supervised directly by Respondent.

249. Respondent, a Vida Spa employee or agent acting at Respondent's direction in the Respondent's presence, or Patient J at the direction and in the presence of Respondent, directly administered to Patient J the controlled substances, Alprazolam and Oxycodone-acetominophen, by ingestion.

250. Dr. Borromeo did not see or treat Patient J, and did not direct or supervise Respondent in her treatment of Patient J.

251. On June 3, 2020, at Vida Spa, Respondent performed a liposuction procedure on Patient J. Respondent administered tumescent anesthesia with Lidocaine and Epinephrine to Patient J, which Respondent obtained, without a patient-specific prescription or an order from a licensed practitioner or a practitioner otherwise authorized to perform medical services for Patient J, from a general store of controlled substances and dangerous drugs obtained and maintained by Vida Spa in violation of federal and state law.

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252. Respondent was not supervised by any licensed physician while performing this invasive surgical procedure on Patient J at Vida Spa.

COUNT XL

NAC 630.380(1)(c) – Performing Medical Services Without A Supervising Physician

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

254. Respondent performed medical services without the direction and supervision of a supervising physician, and in a non-emergency and non-life-threatening situation, when she treated Patient J on June 2 and 3, 2020.

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

COUNT XLI

NRS 630.301(4) - Malpractice

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

257. As demonstrated by, but not limited to, the above-outlined facts, Respondent committed malpractice when she failed to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when rendering medical services to Patient J by performing an invasive surgical procedure on Patient J without the direction and supervision of a supervising physician, by administering tumescent anesthesia to Patient J utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients without a patient-specific prescription or an order from a licensed practitioner or a practitioner otherwise authorized to perform medical services for Patient J, by administering or directly supervising the administration of conscious sedation to Patient J, which is a violation of NRS 630.373 and an apparent violation by Vida Spa of NRS 449.442(1)-(2).

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

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COUNT XLII

NRS 630.306(1)(o) – Administration of Conscious Sedation at an Unaccredited and Unpermitted Facility

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

260. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed to comply with NRS 630.373 when rendering medical services to Patient J, by, among other misconduct, administering and/or supervising directly the administration of conscious sedation to Patient J for an invasive surgical procedure that Respondent performed on Patient J at Vida Spa, which is not the office of a physician or osteopathic physician which holds a permit pursuant to NRS 449.435 to 449.448, inclusive, not a facility which holds a permit pursuant to NRS 449.435 to 449.448, inclusive, and not a medical facility as that term is defined in NRS 449.0151, and which is located inside the State of Nevada.

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

COUNT XLIII

NRS 630.301(9) – Disreputable Conduct

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

263. Respondent engaged in conduct that brings the medical profession into disrepute by, among other misconduct, by performing an invasive surgical procedure on Patient J without the direction and supervision of a supervising physician, by administering tumescent anesthesia to Patient J utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients without a patient-specific prescription or an order from a licensed practitioner or a practitioner otherwise authorized to perform medical services for Patient J, by administering or directly supervising the administration of conscious sedation to Patient J, which is a violation of NRS 630.373 and an apparent violation by Vida Spa of NRS 449.442(1)-(2).

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

K. Respondent's Treatment of Patient K

265. Patient K was a thirty-five (35) year-old female at the time of the events at issue.

266. At all times relevant to Respondent's treatment of Patient K, the so-called "medical director" of Vida Spa was Salvador Borromeo, III, M.D.

267. At all times relevant to Respondent's treatment of Patient K, Respondent did not have a supervising physician, and did not have a supervising physician agreement on file with and accepted by the Board, and was therefore expressly prohibited from performing medical services pursuant to NAC 630.375(2).

268. The medical services rendered to Patient K by Respondent did not occur in a life-threatening or emergency situation.

269. On June 3, 2020, Respondent, who did not have her own DEA registration and controlled substance license issued by the NSBOP, utilized the prescribing credentials of Salvador Borromeo, III, M.D., to issue prescriptions to Patient K for Oxycodone-acetaminophen (a Schedule II Controlled Substance) 5-325 mg tablets, 12 ct. for 3 days; Alprazolam (a Schedule IV Controlled Substance) 1 mg tablets, 4 ct. for 2 days; Promethazine 25 mg tablets, 10 ct. for 2 days, Sulfameth/Trimethprim 800/160 mg tablets, 20 ct. for 10 days.

270. Respondent issued prescriptions for these controlled substances and dangerous drugs by using the pre-printed prescription pad of Salvador Borromeo, III, M.D., which contained his pre-printed DEA number; the prescription was completed by Respondent, or by a Vida Spa employee or agent acting at Respondent's direction, with Patient K's name and with the corresponding medications, quantities and doses. Respondent, or a Vida Spa employee or agent acting at Respondent's direction, presented the prescription to Dr. Borromeo, who then signed the prescription with the understanding that the controlled substances and dangerous drugs would then be used by Respondent on Patient K for the purpose of performing an invasive surgical procedure on Patient K.

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271. The material purpose for prescribing the controlled substances to Patient K was conscious sedation and pain control for an invasive surgical procedure to be performed on Patient K.

272. Dr. Borromeo's express purpose in signing the already completed written prescriptions for controlled substances for Patient K was for conscious sedation and pain control for invasive surgical procedure to be performed on Patient K.

273. The written prescription issued for Patient K in this manner was then presented to Pharmacy Santa Maria, at 3827 E. Sunset Rd, Ste L, Las Vegas, Nevada 89120, which filled the prescription, and the controlled substances and dangerous drugs were then delivered directly to Vida Spa. The controlled substances and dangerous drugs were accepted at Vida Spa by Respondent, or by a Vida Spa employee or agent acting at Respondent's direction, and then administered to Patient K by Respondent, or by a Vida Spa employee or agent supervised directly by Respondent.

274. Respondent, a Vida Spa employee or agent acting at Respondent's direction in the Respondent's presence, or Patient K at the direction and in the presence of Respondent, directly administered to Patient K the controlled substances, Alprazolam and Oxycodone-acetominophen, by ingestion.

275. Dr. Borromeo did not see or treat Patient K, and did not direct or supervise Respondent in her treatment of Patient K.

276. On June 4, 2020, at Vida Spa, Respondent performed a liposuction procedure on the upper back and flanks of Patient K. On information and belief, Respondent administered tumescent anesthesia with Lidocaine and Epinephrine to Patient K, which Respondent obtained, without a patient-specific prescription or an order from a licensed practitioner or a practitioner otherwise authorized to perform medical services for Patient K, from a general store of controlled substances and dangerous drugs obtained and maintained by Vida Spa in violation of federal and state law.

277. Respondent was not supervised by any licensed physician while performing this invasive surgical procedure on Patient K at Vida Spa.

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COUNT XLIV

NAC 630.380(1)(c) – Performing Medical Services Without A Supervising Physician

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

279. Respondent performed medical services without the direction and supervision of a supervising physician, and in a non-emergency and non-life-threatening situation, when she treated Patient K on June 3 and 4, 2020.

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

COUNT XLV

NRS 630.301(4) - Malpractice

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

282. As demonstrated by, but not limited to, the above-outlined facts, Respondent committed malpractice when she failed to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when rendering medical services to Patient K by performing an invasive surgical procedure on Patient K without the direction and supervision of a supervising physician, by administering tumescent anesthesia to Patient K utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients without a patient-specific prescription or an order from a licensed practitioner or a practitioner otherwise authorized to perform medical services for Patient K, by administering or directly supervising the administration of conscious sedation to Patient K, which is a violation of NRS 630.373 and an apparent violation by Vida Spa of NRS 449.442(1)-(2).

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

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COUNT XLVI

NRS 630.306(1)(o) – Administration of Conscious Sedation at an Unaccredited and Unpermitted Facility

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

285. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed to comply with NRS 630.373 when rendering medical services to Patient K, by, among other misconduct, administering and/or supervising directly the administration of conscious sedation to Patient K for an invasive surgical procedure that Respondent performed on Patient K at Vida Spa, which is not the office of a physician or osteopathic physician which holds a permit pursuant to NRS 449.435 to 449.448, inclusive, not a facility which holds a permit pursuant to NRS 449.435 to 449.448, inclusive, and not a medical facility as that term is defined in NRS 449.0151, and which is located inside the State of Nevada.

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

COUNT XLVII

NRS 630.301(9) – Disreputable Conduct

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

288. Respondent engaged in conduct that brings the medical profession into disrepute by, among other misconduct, by performing an invasive surgical procedure on Patient K without the direction and supervision of a supervising physician, by administering tumescent anesthesia to Patient K utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients without a patient-specific prescription or an order from a licensed practitioner or a practitioner otherwise authorized to perform medical services for Patient K, by administering or directly supervising the administration of conscious sedation to Patient K, which is a violation of NRS 630.373 and an apparent violation by Vida Spa of NRS 449.442(1)-(2).

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

L. Respondent's Treatment of Patient L

290. Patient L was a forty (40) year-old female at the time of the events at issue.

291. At all times relevant to Respondent's treatment of Patient L, the so-called "medical director" of Vida Spa was Salvador Borromeo, III, M.D.

292. At all times relevant to Respondent's treatment of Patient L, Respondent did not have a supervising physician, and did not have a supervising physician agreement on file with and accepted by the Board, and was therefore expressly prohibited from performing medical services pursuant to NAC 630.375(2).

293. The medical services rendered to Patient L by Respondent did not occur in a life-threatening or emergency situation.

294. On June 4, 2020, Respondent, who did not have her own DEA registration and controlled substance license issued by the NSBOP, utilized the prescribing credentials of Salvador Borromeo, III, M.D., to issue prescriptions to Patient L for Oxycodone-acetaminophen (a Schedule II Controlled Substance) 5-325 mg tablets, 12 ct. for 3 days; Alprazolam (a Schedule IV Controlled Substance) 1 mg tablets, 4 ct. for 2 days; Promethazine 25 mg tablets, 10 ct. for 2 days, Sulfameth/Trimethprim 800/160 mg tablets, 20 ct. for 10 days.

295. Respondent issued prescriptions for these controlled substances and dangerous drugs by using the pre-printed prescription pad of Salvador Borromeo, III, M.D., which contained his pre-printed DEA number; the prescription was completed by Respondent, or by a Vida Spa employee or agent acting at Respondent's direction, with Patient L's name and with the corresponding medications, quantities and doses. Respondent, or a Vida Spa employee or agent acting at Respondent's direction, presented the prescription to Dr. Borromeo, who then signed the prescription with the understanding that the controlled substances and dangerous drugs would then be used by Respondent on Patient L for the purpose of performing an invasive surgical procedure on Patient L.

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296. The material purpose for prescribing the controlled substances to Patient L was conscious sedation and pain control for an invasive surgical procedure to be performed on Patient L.

297. Dr. Borromeo's express purpose in signing the already completed written prescriptions for controlled substances for Patient L was for conscious sedation and pain control for invasive surgical procedure to be performed on Patient L.

298. The written prescription issued for Patient L in this manner was then presented to Pharmacy Santa Maria, at 3827 E. Sunset Rd, Ste L, Las Vegas, Nevada 89120, which filled the prescription, and the controlled substances and dangerous drugs were then delivered directly to Vida Spa. The controlled substances and dangerous drugs were accepted at Vida Spa by Respondent, or by a Vida Spa employee or agent acting at Respondent's direction, and then administered to Patient L by Respondent, or by a Vida Spa employee or agent supervised directly by Respondent.

299. Respondent, a Vida Spa employee or agent acting at Respondent's direction in the Respondent's presence, or Patient L at the direction and in the presence of Respondent, directly administered to Patient L the controlled substances, Alprazolam and Oxycodone-acetominophen, by ingestion.

300. Dr. Borromeo did not see or treat Patient L, and did not direct or supervise Respondent in her treatment of Patient L.

301. On June 5, 2020, at Vida Spa, Respondent performed a liposuction procedure on the abdomen, flanks back and "bra straps"of Patient L, and a fat transfer to the buttocks of Patient L. Respondent administered tumescent anesthesia with Lidocaine and Epinephrine to Patient L, which Respondent obtained, without a patient-specific prescription or an order from a licensed practitioner or a practitioner otherwised authorized to perform medical services for Patient L, from a general store of controlled substances and dangerous drugs obtained and maintained by Vida Spa in violation of federal and state law.

302. Respondent was not supervised by any licensed physician while performing this invasive surgical procedure on Patient L at Vida Spa.

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COUNT XLVIII

NAC 630.380(1)(a) – Performing Medical Services Without A Supervising Physician

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

304. Respondent performed medical services without the direction and supervision of a supervising physician, and in a non-emergency and non-life-threatening situation, when she treated Patient L on June 4 and 5, 2020.

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

COUNT XLIX

NRS 630.301(4) - Malpractice

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

307. As demonstrated by, but not limited to, the above-outlined facts, Respondent committed malpractice when she failed to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when rendering medical services to Patient L by performing an invasive surgical procedure on Patient L without the direction and supervision of a supervising physician, by administering tumescent anesthesia to Patient L utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients without a patient-specific prescription or an order from a licensed practitioner or a practitioner otherwise authorized to perform medical services for Patient L, by administering or directly supervising the administration of conscious sedation to Patient L, which is a violation of NRS 630.373 and an apparent violation by Vida Spa of NRS 449.442(1)-(2).

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

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COUNT L

NRS 630.306(1)(o) – Administration of Conscious Sedation at an Unaccredited and Unpermitted Facility

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

310. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed to comply with NRS 630.373 when rendering medical services to Patient L, by, among other misconduct, administering and/or supervising directly the administration of conscious sedation to Patient L for an invasive surgical procedure that Respondent performed on Patient L at Vida Spa, which is not the office of a physician or osteopathic physician which holds a permit pursuant to NRS 449.435 to 449.448, inclusive, not a facility which holds a permit pursuant to NRS 449.435 to 449.448, inclusive, and not a medical facility as that term is defined in NRS 449.0151, and which is located inside the State of Nevada.

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

COUNT LI

NRS 630.301(9) – Disreputable Conduct

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

313. Respondent engaged in conduct that brings the medical profession into disrepute by, among other misconduct, by performing an invasive surgical procedure on Patient L without the direction and supervision of a supervising physician, by administering tumescent anesthesia to Patient L utilizing dangerous drugs from Vida Spa's general store of controlled substances and dangerous drugs used for general administration and dispensing to patients without a patient-specific prescription or an order from a licensed practitioner or a practitioner otherwise authorized to perform medical services for Patient L, by administering or directly supervising the administration of conscious sedation to Patient L, which is a violation of NRS 630.373 and an apparent violation by Vida Spa of NRS 449.442(1)-(2).

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

V. RESPONDENT'S CONTINUAL FAILURE TO ENGAGE IN THE PRACTICE OF MEDICINE IN A PROFESSIONAL MANNER

COUNT LII

NRS 630.306(1)(g) – Continual Failure to Practice Medicine Properly

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

316. As demonstrated by, but not limited to, the above-outlined facts, by abundantly and abidingly demonstrating through numerous, repeated, knowing, willful and criminal failures, both before and after her licensure in this state, by engaging in the unlicensed practice of medicine, committing malpractice, violating state and federal laws pertaining to the proper handling, prescription and administration of dangerous drugs and controlled substances, performing medical services without a supervising physician, and obtaining licensure in this state by fraud and misrepresentation, among other serious violations, Respondent has continually failed to exercise the skill and diligence and use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.

317. Respondent's conduct, considered in its entirety, is extraordinarily and persistently unprofessional in character.

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

COUNT LIII

NRS 630.3065(2)(a) – Knowing or Willful Failure to Comply with an Order of the Investigative Committee

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

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320. Pursuant to NRS 630.3065(2)(a), knowingly or willfully failing to comply with an order of the Investigative Committee of the Board is grounds for disciplinary action or denying licensure.

321. The IC is investigating complaints related to instances of alleged malpractice and serious patient injury caused by Licensee, in furtherance of which the IC has issued an Order to Produce Healthcare Records ("Order for Records") pursuant to its authority pursuant to NRS 630.311(1), and issued an allegation letter, both of which lawfully command a response from Licensee.

322. Pursuant to NRS 630.254, Licensee is required to maintain a permanent mailing address with the Board to which all communications from the Board to the licensee must be sent.

323. The IC sent its allegation letter to Licensee by USPS Regular Mail addressed to Licensee's address of record on or about December 17, 2020.

324. The IC sent its allegation letter and Order for Records to Licensee by USPS Regular Mail addressed to Licensee's address of record on or about January 29, 2021.

325. The IC sent its allegation letter and Order for Records to Licensee by USPS. Certified Mail addressed to Licensee's address of record on or about February 26, 2021, which was certified delivered on March 1, 2021.

326. The IC sent its allegation letter and Order for Records to Licensee via email to the email address on file with the Board on or about March 19, 2021.

327. The IC sent its allegation letter and Order for Records to Licensee by FedEx Ground to Licensee's address of record on or about June 28, 2021, which was delivered on July 1, 2021.

328. As of the date of the filing of this First Amended Complaint, Licensee has failed to comply with the IC's allegation letter and lawful Order to Produce Healthcare Records, which failure is impeding the IC's investigation of this matters.

329. On information and belief, Licensee's failure to comply with the IC's Order is knowing and willful.

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330. 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 her and give him notice that she 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 19th day of July, 2021.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

AARON B. FRICKE, J.D.
General Counsel
9600 Gateway Drive
Reno, NV 89521
Tel: (775) 688-2559
Email: africke@medboard.nv.gov
Attorney for the Investigative Committee

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

VERIFICATION

STATE OF NEVADA)
: ss.
COUNTY OF CLARK)

Victor M. Muro, 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 19th day of July, 2021.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: V M Muro MD
VICTOR M. MURO, M.D.
Chairman for the Investigative Committee

OFFICE OF THE GENERAL COUNSEL
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EXHIBIT 104

EXHIBIT 104

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against:	**Case No. 21-51633-1**
TAMMY LYNN HANKINS, PA-C	FILED
Respondent.	DEC - 7 2021
	NEVADA STATE BOARD OF MEDICAL EXAMINERS
	By:

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

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

This case was presented for adjudication and decision before the Nevada State Board of Medical Examiners (Board), during a regularly scheduled Board meeting on December 3, 2021, at 8:40 a.m., (Pacific Standard Time), located at 325 E. Warm Springs Road, Suite 225, Las Vegas, NV 89119. Tammy Lynn Hankins, PA-C (Respondent), was properly served with a notice of the adjudication, including the date, time, and location. Respondent was not present personally or through an attorney. Rosalie M. Bordelove, Esq., Chief Deputy Attorney General, served as legal counsel to the Board. The adjudicating members of the Board rendering these Findings of Fact, Conclusions of Law (FOFCOL) and Order are: Bret W. Frey, M.D., Chowdhury H. Ahsan, M.D., Ph.D., FACC, Ms. Pamela J. Beal, Col. Eric D. Wade, USAF (Ret.), Nicola (Nick) M. Spirtos, M.D., FACOG, and Carl N. Williams, Jr., M.D., FACS.

The Board, having received and read the First Amended Complaint (Complaint) and exhibits admitted at the hearing of this matter, the Hearing Officer's Findings and Recommendations[1], and the transcript of the hearing, made its decision pursuant to its authority and provisions of the 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.

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

The Board, after due consideration of the record, evidence and law, and being fully advised in the premises, makes its FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER in this matter, as follows:

FINDINGS OF FACT

I.

Respondent held a license to practice medicine in the State of Nevada issued by the Board from March 6, 2020, to present.

II.

On July 20, 2021, the Investigative Committee filed its formal First Amended Complaint (Complaint) in Case No. 21-51633-1, alleging Respondent violated the Medical Practice Act. Respondent was served with the Complaint on July 24, 2021, at her address of record with the Board. Pursuant to NRS 630.254, each licensee shall maintain a permanent mailing address with the board to which all communications from the Board to the licensee must be sent. A licensee who changes his or her permanent mailing address shall notify the Board in writing of the new permanent mailing address within 30 days after the change.

The Complaint alleges fifty-three (53) violations of the Medical Practice Act that constitute grounds for initiating disciplinary action against a licensee, as follows: eight (8) counts of NRS 630.400(1)(d), Unlicensed Practice of Medicine, Counts I, V, IX, XIII, XVII, XXIII, XXVIII and XXXII; twelve (12) counts of NRS 630.301(4) Malpractice, Counts II, VI, X, XIV, XVIII, XXIV, XXIX, XXXIII, XXXVII, XLI, XLV and XLIX; five (5) counts of NRS 630.3062(1)(h) Fraudulent, Illegal, Unauthorized and Otherwise Inappropriate Prescribing of Schedule IV Controlled Substance, Counts III, VII, XI, XV, XIX; twelve (12) counts of NRS 630.301(9) Disreputable Conduct, Counts IV, VIII, XII, XVI, XX, XXV, XXX, XXXIV, XXXIX, XLIII, XLVII and LI; two (2) counts of NRS 630.306(1)(u) Illegal Injection of Botox or Xeomin, Counts XXI and XXVI; three (3) counts of NRS 630.306(1)(u) Illegal Injection of Versa, Counts XXII, XXVII and XXXI; one (1) count of NRS 630.304(1) Fraud and Misrepresentation in Obtaining a License, Count XXXV; four (4) counts of NAC 630.380(1)(c) Performing Medical Services Without A Supervising Physician, Counts XXIV, XL, XLIV and XLVIII; four (4) counts

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of NRS 360.306(1)(o) Administration of Conscious Sedation at an Unaccredited and Unpermitted Facility, Counts XXXVIII, XLII, XLVI and L; one (1) count of NRS 630.306(1)(g) Continual Failure to Practice Medicine Properly, Count LII; and one (1) count of NRS 630.3065(2)(a) Knowing or Willful Failure to Comply with an Order of the Investigative Committee, Count LIII.

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

III.

An Order Scheduling Early Case Conference was filed on August 16, 2021, scheduling the Early Case Conference for the pending matter for September 2, 2021, at 10:00 a.m. This Order was mailed via USPS Certified Mail, postage pre-paid, to Respondent's address of record, and was delivered to and signed for on August 21, 2021, at 12:09 p.m. On September 2, 2021, a telephonic Early Case Conference was conducted in this matter. Aaron Bart Fricke, J.D., General Counsel, (Mr. Fricke) was present on behalf of the Investigative Committee (IC) of the Board, with Hearing Officer Patricia Halstead, Esq. Respondent did not appear or participate. The parties agreed to dates for the pre-hearing conference, exchange of documents, and the hearing date.

In compliance with NAC 630.465, a Scheduling Order, setting pre-hearing and hearing was filed on September 13, 2021, setting the pre-hearing conference for September 16, 2021, at 3:30 p.m., and setting the hearing for October 19, 2021, at 8:30 a.m., at the Office of the Nevada State Board of Medical Examiners, 9600 Gateway Drive, Reno, Nevada 89521, and video conferenced to the Board's Las Vegas Office, located at 325 E. Warm Springs Road, Suite 225, Las Vegas, NV 89119. The Scheduling Order was delivered to Respondent at her address of record via Fed Ex Priority mail on September 14, 2021.

An Amended Scheduling Order was then filed on September 20, 2021, changing the Pre-Hearing Conference to September 22, 2021, the remainder of the Scheduling Order filed on September 13, 2021, remained the same. The Amended Scheduling Order was delivered to Respondent at her address of record via Fed Ex Priority Mail on September 21, 2021.

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The Pre-Hearing Conference was held telephonically as noticed and ordered, at which time, legal counsel for the IC, Mr. Fricke, appeared. Neither the Respondent nor any representative of the Respondent appeared at the Pre-Hearing Conference. Respondent was timely and properly served with the Pre-Hearing Conference Statement and the mandated Pre-Hearing Disclosures in accordance with NRS and NAC Chapters 630, NRS Chapters 241, 622A and 233B, and the requirements of due process, by Fed Ex Priority Mail, delivered to Respondent at her address of record on September 22, 2021, at 11:43 a.m.

IV.

On October 19, 2021, as duly noticed and ordered, a hearing was held before the Hearing Officer to receive evidence and to hear the arguments of both parties. Legal counsel for the IC, Mr. Fricke, appeared. Respondent did not attend the hearing, nor did she have counsel appear on her behalf. Mr. Fricke presented the IC's case, offered documentary evidence and presented witness testimony. Exhibits 1 through 58, were marked and admitted into evidence.

Pursuant to NRS 622A.350(1) and (2), as Respondent did not appear and as a continuance had not been scheduled, sought or granted, Mr. Fricke made an offer of proof on the record that Respondent was given sufficient legal notice. Upon a determination by the regulatory body or hearing panel or officer that the absent 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. Based thereon, good cause appearing, the Hearing Officer found that sufficient legal notice had been provided to the Respondent, and therefore found that the Board may accept the IC's allegations against the Respondent in the Complaint as true.

Notwithstanding the presumption afforded the Board pursuant to NRS 622A.350(2), Mr. Fricke presented the IC's case in its entirety, thus establishing a record for the Board to review the case on the merits.

The Hearing Officer provided the Findings and Recommendations, filed November 17, 2021. This matter was scheduled for final adjudication on December 3, 2021, at a regularly scheduled Board meeting.

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The notice of the adjudication was sent via USPS Certified Mail, and was delivered on Respondent's address of record on October 30, 2021, at 12:55 p.m.

A copy of the adjudication materials along with a copy of the Hearing Officer's Findings and Recommendation were mailed via USPS Certified Mail, and were delivered on Respondent's address of record on November 26, 2021, at 1:48 p.m.

V.

Pursuant to NRS 622A.300(5)(a), the Findings and Recommendations of the Hearing Officer are hereby approved and adopted by the Board, in their entirety and without modification, and are hereby specifically incorporated and made part of this Order by reference. A copy of the Findings and Recommendations filed on November 17, 2021, in this matter is attached hereto as **Exhibit 1**.

VI.

The Board hereby finds that Counts I-LIII, as set forth in the Complaint, and as recapitulated in Paragraph II above, have been established by a preponderance of the evidence.

VII.

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 First Amended Complaint, as follows: eight

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(8) counts of NRS 630.400(1)(d), Unlicensed Practice of Medicine, Counts I, V, IX, XIII, XVII, XXIII, XXVIII and XXXII; twelve (12) counts of NRS 630.301(4) Malpractice, Counts II, VI, X, XIV, XVIII, XXIV, XXIX, XXXIII, XXXVII, XLI, XLV and XLIX; five (5) counts of NRS 630.3062(1)(h) Fraudulent, Illegal, Unauthorized and Otherwise Inappropriate Prescribing of Schedule IV Controlled Substance, Counts III, VII, XI, XV, XIX; twelve (12) counts of NRS 630.301(9) Disreputable Conduct, Counts IV, VIII, XII, XVI, XX, XXV, XXX, XXXIV, XXXIX, XLIII, XLVII and LI; two (2) counts of NRS 630.306(1)(u) Illegal Injection of Botox or Xeomin, Counts XXI and XXVI; three (3) counts of NRS 630.306(1)(u) Illegal Injection of Versa, Counts XXII, XXVII and XXXI; one (1) count of NRS 630.304(1) Fraud and Misrepresentation in Obtaining a License, Count XXXV; four (4) counts of NAC 630.380(1)(c) Performing Medical Services Without A Supervising Physician, Counts XXIV, XL, XLIV and XLVIII; four (4) counts of NRS 360.306(1)(o) Administration of Conscious Sedation at an Unaccredited and Unpermitted Facility, Counts XXXVIII, XLII, XLVI and L; one (1) count of NRS 630.306(1)(g) Continual Failure to Practice Medicine Properly, Count LII; and one (1) count of NRS 630.3065(2)(a) Knowing or Willful Failure to Comply with an Order of the Investigative Committee, Count LIII. 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,

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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), the Board shall administer a written public reprimand to Respondent.

2. Pursuant to NRS 630.352(4)(d), Respondent's license to practice medicine as a physician assistant is hereby revoked. In accord with NRS 622A.410(1), the Board hereby prescribes a period of ten (10) years, during which Respondent may not apply for reinstatement of this license;

3. Pursuant to NRS 630.352(4)(h), Respondent is hereby ordered to pay a fine of one thousand dollars ($1,000.00) per violation of the Medical Practice Act, for a total fine in the amount of fifty-three thousand dollars ($53,000.00), to be paid within sixty (60) days of service of this Order; and

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4. Respondent is hereby further 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 seventeen thousand seven hundred forty-five dollars and eighty-one cents ($17,745.81), to be paid within sixty (60) days of service of this Order. The Board, and/or its designee, are granted the authority to collect any and all funds due under this Order.

IT IS SO ORDERED.

DATED this 7th day of December, 2021.

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____
VICTOR M. MURO, M.D.
President of the Board

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Nevada State Board of Medical Examiners
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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 **TAMMY LYNN HANKINS, PA-C**, Case No. 21-51633-1.

I further certify that Victor M. Muro, 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 Victor M. Muro, 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 7th day of December, 2021.

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: Maggie Arias-Petrel

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

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EXHIBIT 1

EXHIBIT 1

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and

Complaint Against

TAMMY LYNN HANKINS, PA-C,

Respondent.

Case No. 21-51633-1

FILED

NOV 17 2021

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By:

FINDINGS AND RECOMMENDATIONS

TO: Aaron B. Fricke, Esq.
General Counsel
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, Nevada 89521

Tammy Lynn Hankins, PA-C
3753 Cherry Tree Blvd.
Lake Havasu City, Arizona 86406

This matter came for evidentiary hearing on October 19, 2021. Appearing for the hearing were Aaron B. Fricke, Esq. on behalf of the Investigative Committee (the "IC") and the undersigned Hearing Officer. Respondent Tammy Lynn Hankins, PA-C ("Respondent") did not appear nor otherwise participate.

Notice to Respondent of the date and time of the hearing was confirmed on the record. The hearing record does not reflect proof of service of the Scheduling Order, which initially set the evidentiary hearing date and time;[1] however, an Amended Scheduling Order was issued and filed on September 20, 2021, noticing the evidentiary hearing. A Proof of Service filed on

[1] A Proof of Service for the Scheduling Order was filed subsequent to the evidentiary hearing on November 10, 2021, which indicates that the Scheduling Order, which set the evidentiary hearing date and time, was delivered to Respondent by certified mail on September 14, 2021 to her last known address.

September 24, 2021, indicates that the Amended Scheduling Order was served upon Respondent by certified mail to her last known address on file with the Nevada State Board of Medical Examiners (the "Board") on September 21, 2021. *See* NRS 630.254; NRS 630.255; NRS 630.344; and Volume 1, Exhibit 15. Thus, Respondent had notice of the evidentiary hearing.

Prior filings were also sent to Respondent by which she had notice of the proceedings such as the Complaint and Errata thereto, proofs of service for which are reflected in the record at Volume 1, Exhibits 4 and 5 respectively; the First Amended Complaint and Order for Summary Suspension, proof of service for which are reflected at Volume 1, Exhibit 8; and the Order Scheduling Early Case Conference, proof of service for which is reflected at Volume 1, Exhibit 10. Despite the filings served upon Respondent, she has failed to make any appearance in this matter.

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

> 1. If a party fails to appear at a scheduled hearing and a continuance has not been scheduled or granted, any party who is present at the hearing may make an offer of proof that the absent party was given sufficient legal notice. Upon a determination by the regulatory body or hearing panel or officer that the absent 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.
>
> 2. If the licensee fails to appear at a hearing, the regulatory body or hearing panel or officer may accept the allegations against the licensee in the charging document as true.

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

In so proceeding, Mr. Fricke asked that the matter be considered from the record, which includes the transcript of the September 20, 2021 Summary Suspension Hearing (Volume 1, Exhibit 19) and all exhibits submitted and admitted in support thereof (Volume 2, Exhibits 1-58),

which were incorporated by reference into the record of the evidentiary hearing for purposes of its adjudication. Mr. Fricke then provided a closing statement, gave direction on the organization of the Amended Complaint and the exhibits, and submitted the matter for consideration.

Having heard from Mr. Fricke regarding the circumstances underlying the initial suspension of Respondent's license and the continued basis therefore; having considered the same in consideration of the charges against Respondent; and there being no contradictory evidence presented in either proceeding, the undersigned Hearing Officer finds as follows.

1. Respondent has prior felony convictions out of the State of Arizona for Conspiracy to Obtain a Dangerous Drug by Fraud, a Class B felony (conviction date is October 2, 2013), and Sexual Conduct with a Minor, a Class 6 felony (conviction date is August 11, 2014). Volume 2, Exhibits 17-19. Respondent was granted the privilege of probation for the Conspiracy to Obtain a Dangerous Drug by Fraud conviction, which was revoked based upon the violation of her probation and the subsequent Sexual Conduct with a Minor conviction. Id.

2. Subsequent to her incarceration for the Arizona felony convictions, perhaps in early October 2019, although it is not clear, Respondent began employment with Vida Spa LLC, a Nevada Limited Liability Company ("Vida Spa").

3. On March 6, 2020, Respondent appeared before the Board in support of her then submitted application to obtain licensure to practice as a physician's assistant in the State of Nevada. Respondent represented to the Board that her employment with Vida Spa was contingent upon her licensing and that she had not practiced clinical medicine since 2013. Volume II, Exhibit 20, pg. 318.

4. Respondent was granted Nevada license on Mach 6, 2020.

5. On October 6, 2020, the Board received a complaint against Respondent regarding patient care and bodily injury in relation to a medical procedure that Respondent performed on June 27, 2020. Volume 1, Exhibit 19, p. 16; Volume II, Exhibit 30.

6. The IC investigated the lodged complaint and, in so doing, requested a response from Respondent to several allegations of wrongdoing. No response by Respondent was

forthcoming and a subpoena duces tecum was eventually issued to Vida Spa. Volume II, Exhibits 30-37.

7. Records obtained from Vida Spa in the course of the IC's investigation against Respondent demonstrate that Respondent had been practicing medicine at Vida Spa since at least October 2019, six (6) months prior to her appearance before the Board referenced in paragraph 3 above.

8. The records obtained in the course of the IC's investigation demonstrate that Respondent performed liposuction, a medical procedure, for Patient A on October 10, 2019; Patient B on October 8, 2019; Patient C on October 9, 2019; Patent D on October 13, 2019; Patient E on October 8, 2019; Patient I on June 2, 2020; Patient J on June 3, 2020; Patient K on June 4, 2020; and Patient L on June 5, 2020. In addition, Respondent performed medical procedures by undertaking Botox and Versa injections for Patient F on August 14, 2019; Xeomin and Versa injections for Patient G on October 29, 2019; and Versa injections for Patient H on November 5, 2019. Volume II, Exhibits 1 through 13, and 38-58; Volume II, Exhibit 19.

9. While undertaking each of the above-referenced medical procedures, Respondent was not working under a supervising physician. Volume I, Exhibit 19, pp. 36, 49-51, 53; Volume II, Exhibits 25, 26, and 30; *see* NRS 630.271.

10. The above-referenced medical procedures were performed in a facility that was not a medical facility nor otherwise permitted so as to legally accommodate the administration of anesthesia or sedation. Volume I, Exhibit 19, p. 73; *see* NRS 449.0151; NRS 630.373.

11. In undertaking the treatment of Patients A through E and I through L, Respondent, who was not a licensed prescribing practitioner in that she was not licensed at the time nor under the supervision of a prescribing physician (*see* NRS 453.126), prescribed controlled substances, namely Tramadol; Diazepam; Alprazolam; and/or Oxycodone. Volume II, Exhibits 1 through 5, 9 through 13; Volume II, Exhibit 19, pp. 51-54, 59-65, 68.

12. Respondent performed invasive medical procedures, namely liposuction and/or fat grafting on Patients A through E and I through L, without proper sedation and in a manner dangerous to patient care and safety, utilizing a tumescent anesthesia with Lidocaine and

Epinephrine or other controlled substances from Vida Spa's general storage of controlled substances, which were obtained by Respondent without a patient-specific prescription or an order from a licensed prescribing and supervising practitioner, and which Respondent utilized to facilitate conscious sedation. Volume II, Exhibits 1 through 5, 9 through 13; Volume II, Exhibit 19, pp. 59-70.

WHEREFORE, the undersigned hearing officer finds as follows:

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

Pursuant to NRS 622A.350(2) the undersigned accepts the allegations against Respondent in the First Amended Complaint, filed June 20, 2021, as true;

Aside from the authority granted by NRS 622A.350(2), the undersigned hearing officer finds that the IC established violations of Counts I; V; IX; XIII; XVII; XXIII; XXVIII; and XXXII, Unlicensed Practice of Medicine, in that Respondent undertook the medical procedures outlined in paragraph 8 herein prior to obtaining her Nevada license.

The undersigned hearing officer finds that the IC established violations of Counts II; VI; X; XIV; XVIII; XXIV; XXIX; XXXIII; XXXVII; XLI; XLV; and XLIX, Malpractice, in that Respondent failed use reasonable care, skill, or knowledge ordinarily used under similar circumstances by similarly trained and experienced providers of health care in treating Patients A through L by undertaking medical procedures without being properly licensed; by undertaking medical procedures without required supervision; by undertaking invasive medical procedures in an unpermitted and non-medical facility; by fraudulently prescribing and/or improperly administering controlled substances; and/or by utilizing controlled substances in a manner that deviated from standard practice for the procedures undertaken.

The undersigned hearing officer finds that the IC established violations of Counts III; VII; XI; XV; and XIX, Fraudulent, Illegal, Unauthorized and Otherwise Inappropriate Prescribing of Schedule IV Controlled Substances, in that Respondent prescribed Tramadol and/or Diazepam, each of which are controlled substances, to Patients A, B, C, D, and E, and did so without the involvement and supervision of a licensed prescribing practitioner and by utilizing the

prescription credentials of a licensed prescribing practitioner who had not seen nor treated the patients to which the controlled substances were prescribed.

The undersigned hearing officer finds that the IC established violations of Counts IV; VIII; XII; XVI; XX; XXV; XXX; XXXIV; XXXIX; XLIII; XLVII; and LI, Disreputable Conduct, in that Respondent engaged in conduct that brings the medical profession into disrepute by and through unethical conduct that includes having practiced medicine without a license; engaging in the unsupervised practice of medicine; having performed invasive medical procedures in an unpermitted and non-medical facility; having fraudulently prescribed controlled substances; and/or having accessed and misused controlled substance(s) to invoke conscious sedation for liposuction procedures in relation to the treatment of patients A through L.

The undersigned hearing officer finds that the IC established violations of Counts XXI; XXII; XXVI; XXVII; and XXXI, Illegal Injection, in that Respondent injected Patients F and G with Botox/Xeomin, a neuromodulator derived from clostridium botulinum, and injected Patients F, G, and H with Versa, a dermal or soft tissue filler, without being licensed to practice medicine at the time of the injections and did so in an unpermitted and non-medical facility.

The undersigned hearing officer finds that the IC established a violation of Count XXXV, Fraud and Misrepresentation in Obtaining a License, in that Respondent appeared before the Board on March 6, 2020, and knowingly and falsely represented that she had not practiced clinical medicine since 2013 and that her job at a Las Vegas medical spa, i.e., Vida Spa, was contingent upon her obtaining a license to practice in Nevada. This representation by Respondent was false and was made in an attempt to obtain her Nevada medical license. Respondent had been employed by and practicing medicine at Vida Spa since at least October 2019.

The undersigned hearing officer finds that the IC established violations of Counts XXXVI; XL; XLIV; and XLVIII, Performing Medical Services Without a Supervising Physician, in that Respondent performed liposuction and/or fat grafting procedures for Patients I, J, K, and L without supervision by a licensed physician.

The undersigned hearing officer finds that the IC established violations of Counts XXXVIII; XLII; XLVI; and L, Administration of Conscious Sedation at an Unaccredited and

Unpermitted Facility in that Respondent administered or supervised administration of conscious sedation to Patients I, J, K, and L in an unpermitted, non-medical facility, namely Vida Spa.

The undersigned hearing officer finds that the IC established a violation of Count LII, Continual Failure to Practice Medicine Property, in that Respondent continually undertook the conduct complained of herein over the course of several months and while doing so failed to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.

The undersigned hearing officer finds that the IC established a violation of Count LIII, Knowing or Willful Failure to Comply with an Order of the Investigative Committee, in that Respondent failed to respond to the allegation letter repeatedly sent to Respondent at her last known address, thus failing to comply with an order of the Board to provide requested information.

BASED UPON THE FOREGOING, it is recommended that the Board find against Respondent Tammy Lynn Hankins, PA-C as set forth herein.

RESPECTFULLY SUBMITTED this 16th day of November 2021.

Patricia Halstead, Esq., Hearing Officer for the
Nevada State Board of Medical Examiners
615 S. Arlington Ave.
Reno, NV 89509
(775) 322-2244
phalstead@halsteadlawoffices.com

EXHIBIT 105

EXHIBIT 105

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: SALVADOR GARCIA BORROMEO, M.D., Respondent.	Case No. 21-12423-1

FILED
AUG 11 2021
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 Aaron B. Fricke, J.D., General Counsel and attorney for the IC, having a reasonable basis to believe that Salvador Garcia Borromeo, 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 relevant to this Complaint a medical doctor holding an active license to practice medicine in the State of Nevada (License No. 8770). Respondent was originally licensed by the Board on August 24, 1998.

I. STATEMENT OF LAW

A. "Medical Directors," Medical Assistants, and the Unlicensed Practice of Medicine

2. NRS 630.305(1)(e) provides that aiding, assisting, employing or advising, directly or indirectly, any unlicensed person to engage in the practice of medicine, contrary to the provisions of NRS Chapter 630 or the regulations of the Board, is grounds for disciplinary action or denying licensure.

[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 Victor M. Muro, M.D., Chair, Weldon Havins, M.D., J.D., and Ms. Maggie Arias-Petrel.

3. Pursuant to NRS 630.020(1)-(4), the "Practice of medicine" means:

> 1. To diagnose, treat, correct, prevent or prescribe for any human disease, ailment, injury, infirmity, deformity or other condition, physical or mental, by any means or instrumentality, including, but not limited to, the performance of an autopsy.
>
> 2. To apply principles or techniques of medical science in the diagnosis or the prevention of any such conditions.
>
> 3. To perform any of the acts described in subsections 1 and 2 by using equipment that transfers information concerning the medical condition of the patient electronically, telephonically or by fiber optics, including, without limitation, through telehealth, from within or outside this State or the United States.
>
> 4. To offer, undertake, attempt to do or hold oneself out as able to do any of the acts described in subsections 1 and 2.

4. NRS 630.400(1)(d) provides that it is unlawful to practice medicine without being licensed under NRS Chapter 630.

5. Pursuant to NRS 630.400(2) and NRS 193.130(c) and (d), the unlawful practice of medicine is a felony, punishable by imprisonment in the state prison for a minimum term of not less than one (1) year and a maximum term of not more than five (5) years.

6. Pursuant to the Medical Practice Act, the only means by which a practitioner may lawfully aid, assist, employ or advise, directly or indirectly, an unlicensed person to engage in the practice of medicine, is by delegating specific tasks to an adequately supervised and trained "medical assistant."

7. Pursuant to NRS 630.0129, a "medical assistant" means a person who:

> (a) performs clinical tasks under the supervision of a practitioner, and
>
> (b) does not hold a license, certificate or registration issued by a professional licensing or regulatory board in this State to perform such clinical tasks; the term does not include a person who performs only administrative, clerical, executive or other nonclinical tasks.

8. Pursuant to NRS 630.306(1)(r), a practitioner must adequately supervise his or her medical assistants, and failing to do so is grounds for initiating disciplinary action or denying licensure.

9. Pursuant to NAC 630.830, a delegating practitioner is professionally responsible for the safety and performance of each task which is delegated to a medical assistant. Pursuant to NAC 630.810, a delegating practitioner may not delegate tasks to a medical assistant unless: (a) the

delegating practitioner knows that the medical assistant possesses the knowledge, skill and training to perform the task safely and properly; (b) the medical assistant is not required to be certified or licensed to perform that task; and (c) the medical assistant is employed by the delegating practitioner or the medical assistant and the delegating practitioner are employed by the same employer.

10. Pursuant to NAC 630.830(4), a delegating practitioner shall not delegate or otherwise allow a medical assistant to administer an anesthetic agent which renders a patient unconscious or semiconscious.

11. Pursuant to NAC 630.820, a delegating practitioner may not remotely supervise a medical assistant, except in a specific case of emergency in a rural area.[2]

12. Except as otherwise provided in NAC 630.820, pursuant to NAC 630.810, if a medical assistant is delegated a task which involves an "invasive procedure," [3] the delegating practitioner must be immediately available to exercise oversight in-person while the medical assistant performs the task.

13. The term "medical director" is not recognized or defined under the Medical Practice Act, and no law authorizes a licensee of the Board to, by calling himself or herself a "medical director," violate or circumvent the aforementioned statutes and regulations of the Medical Practice Act.

14. Accordingly, pursuant to NRS 630.400(1)(d), 630.305(1)(e), and 630.0129, and NAC 630.800-830:

a. A practitioner who, whether by serving as a so-called "medical director" or by some other relationship or circumstance, aids, assists, employs or advises, directly or indirectly, any unlicensed person to engage in the practice of medicine, may lawfully do so only by delegating tasks

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[2] Remote supervision of a medical assistant is prohibited unless: (a) the patient is located in a rural area; (b) the delegating practitioner is physically located a significant distance from the location where the task is to be performed; (c) the delegating practitioner determines that the exigent needs of the patient require immediate attention; (d) the patient and the delegating practitioner previously established a practitioner-patient relationship; and (e) the delegating practitioner is immediately available by telephone or other means of instant communication during the performance of the task by the medical assistant. As used in NAC 630.820, "rural area" means any area in this State other than Carson City or the City of Elko, Henderson, Reno, Sparks, Las Vegas or North Las Vegas.

[3] The Medical Practice Act does not define "invasive procedure," however, NAC 449.9733 pertaining to Medical Facilities defines "invasive procedure" as "a medical procedure involving entry into the human body by puncture or incision or by insertion of an instrument."

to an adequately supervised and properly trained medical assistant, who the delegating practitioner knows possesses the knowledge, skill and training to perform the task safely and properly, and the delegating practitioner is professionally responsible for the safety and performance of each task which is delegated to that medical assistant.

b. A practitioner who, whether by serving as a so-called "medical director" or by some other relationship or circumstance, aids, assists, employs or advises, directly or indirectly, any unlicensed person to engage in the practice of medicine, but who has not done so by delegating specific tasks to an adequately supervised and properly trained medical assistant, has violated NRS 630.305(1)(e), and is subject to discipline for aiding and abetting the unlicensed practice of medicine. In addition, the unlicensed person engaged in the practice of medicine has violated NRS 630.400(1)(d), by practicing medicine without a license.

c. A practitioner who delegates a medical task to a medical assistant, whether by serving as a so-called "medical director" or by some other relationship or circumstance, remains professionally responsible for, among other requirements, ensuring the following:

i. The safety and performance of each task delegated;

ii. The proper employment relationships between themselves and the medical assistant or their common employer;

iii. The medical assistant is sufficiently knowledgeable, trained and skilled to perform the tasks delegated to them;

iv. The medical assistant is adequately supervised, and the practitioner must be nearby to supervise the specific medical tasks delegated, and, if it is an invasive medical task, then the delegating practitioner must be immediately available to exercise oversight in-person while the medical assistant performs the task; and

v. The medical assistant does not administer an anesthetic agent which renders a patient unconscious or semiconscious.

d. A practitioner who delegates a medical task to a medical assistant, whether by serving as a so-called "medical director" or by some other relationship or circumstance, and who violates the aforementioned provisions of the NRS or NAC pertaining to medical assistants, and

who fails to adequately supervise that medical assistant as required under the circumstances, has violated NRS 630.306(1)(r), and is subject to discipline for failing to adequately supervise a medical assistant.

B. Cosmetologists, "Medical Spas" and "Medical Aestheticians," and the Unlicensed Practice of Medicine

15. Pursuant to NRS 644A.030, a licensed "cosmetologist" is not authorized by such license to practice medicine in any way. Rather, a licensed cosmetologist is authorized pursuant to NRS Chapter 644A to perform only non-medical, cosmetology services, such as cleansing, stimulating or massaging the scalp or cleansing or beautifying the hair by the use of cosmetic preparations, antiseptics, tonics, lotions or creams, cutting, trimming or shaping the hair, removing hair by the use of depilatories, waxing, tweezing or sugaring, except for the permanent removal of hair with needles, manicuring nails, massaging the skin, giving facials, and other miscellaneous non-medical, cosmetological services.

16. Pursuant to NAC 644A.790, a cosmetologist is further explicitly prohibited from performing "invasive procedures," which mean, for the purposes of professional licensing of cosmetologists, "an act that affects the structure or function of the skin other than the uppermost layers of the skin," and which, for the sake of regulating the practice of cosmetologists, includes, without limitation, (a) the application of electricity for the sole purpose of contracting a muscle, (b) the application of a topical lotion, cream or other substance which affects anything other than the uppermost layers of the skin, (c) the penetration of the skin by needles, and (d) the abrasion of the skin below the uppermost layers of the skin.

17. Further, there is no such license as "medical aesthetician" or "medical cosmetologist" authorized by any Nevada law or issued by any Nevada sanctioned professional licensing body. On the contrary, NAC 644A.870 specifically prohibits cosmetologists and aestheticians from using the terms "expert," "advanced" or "medical" in connection with any description of their practice in any branch of cosmetology or otherwise holding the licensee out to the public as an expert, advanced or medical practitioner of any branch of cosmetology.

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18. Accordingly, a Nevada licensed cosmetologist or aesthetician may not refer to himself or herself as a "medical cosmetologist" or "medical aesthetician" in connection with any description of their practice. They also may not, in fact, practice medicine in any way or perform invasive medical procedures or medical services of any kind, unless they do so as a "medical assistant" to a Nevada licensed medical professional, i.e., either as medical assistant to a Nevada licensed physician or physician assistant pursuant to NRS 630.0129, et. seq., and NAC 630.800-830, as described above, or similarly as another type of professional "assistant," "hygienist," "technician," or other such designation, who is delegated tasks by and under the direct supervision of another medical professional who is duly licensed pursuant to chapters 631 to 637, inclusive, 639 or 640 of NRS, and who remains professionally responsible for their conduct.

19. If a cosmetologist or aesthetician practices medicine in any way, unless he or she acts as a medical assistant and is delegated tasks and is properly supervised by a professional medical practitioner, then he or she is violating NRS 630.400(1)(d) by practicing medicine without a license.

C. Nevada Pharmacy Laws Regarding Controlled Substances, Dangerous Drugs and Hypodermic Devices

20. NRS 630.306(1)(b)(3) provides that engaging in conduct that violates a regulation adopted by the Nevada State Board of Pharmacy (Pharmacy Board) is grounds for initiating disciplinary action against a licensee.

21. Pursuant to NRS 630.3062(1)(h), fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, administering or dispensing of a controlled substance listed in schedule II, III or IV is grounds for initiating disciplinary action or denying licensure.

22. Pursuant to 21 Code of Federal Regulations (CFR) §1306.04(a)-(b) and NRS 453.381, a physician or physician assistant may prescribe or administer controlled substances only for a legitimate medical purpose and in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, and a prescription may not be issued in order for an individual practitioner

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to obtain controlled substances for supplying the individual practitioner for the purpose of general dispensing to patients. *See* 21 CFR §1306.04(a)-(b).

23. Pursuant to NRS 454.201, a "dangerous drug" is any drug, other than a controlled substance, unsafe for self-medication or unsupervised use, and includes, among other things, (1) any drug which has been approved by the Food and Drug Administration for general distribution and bears the legend: "Caution: Federal law prohibits dispensing without prescription," and (2) any drug which, pursuant to the Board's regulations, may be sold only by prescription because the Board has found those drugs to be dangerous to public health or safety.

24. Pursuant to NRS 454.316 and NRS 454.321, it is unlawful to possess, dispense or furnish a dangerous drug except when furnished to the person by a pharmacist pursuant to a legal prescription from a practitioner.

25. Pursuant to NRS 454.009, a "hypodermic" device is any syringe, needle, instrument, device or implement intended or capable of being adapted for the purpose of administering drugs by subcutaneous, intramuscular or intravenous injection.

26. Pursuant to NRS 454.510, it is unlawful for any person to have in his or her possession or under his or her control any hypodermic device that is restricted by federal law to sale by or on the order of a physician, unless the person has acquired possession of such device in accordance with the provisions of NRS 454.480 to 454.530, inclusive, that is, by sale from a licensed pharmacist, on the prescription of a physician or other practitioner, which prescription is filled as required by NRS 639.236, and may be refilled as authorized by the prescriber.

27. Accordingly, pursuant to NRS 454.009, 454.201, 454.316, 454.321 and 454.510, any person who is not a practitioner as defined in NRS 639.0125 is not permitted by Nevada law to possess, control, access, prescribe, administer, and/or dispense dangerous drugs or hypodermic devices, except as a medical assistant under the direct supervision of a Nevada licensed physician, physician assistant, or other licensed medical professional, and then, only if otherwise permitted and in compliance with laws of regulating pharmacies and pharmaceuticals.

28. NAC 639.742(1) provides that a practitioner who wishes to dispense controlled substances or dangerous drugs must apply to the Pharmacy Board for a certificate of registration to

dispense controlled substances or dangerous drugs. A practitioner must submit a separate application for each site of practice, including, without limitation, any remote site or satellite consultation site, from which the practitioner wishes to dispense controlled substances or dangerous drugs.

29. NAC 639.742(2) provides that if a facility from which the practitioner intends to dispense dangerous drugs or controlled substances is not wholly owned and operated by the practitioner, the owner or owners of the facility must also submit an application to the Pharmacy Board for a license to do so.

30. NAC 639.742(3) provides in pertinent part that a dispensing practitioner and, if applicable, the owner or owners of the facility, shall ensure that:

> . . . (b) All drugs are received and accounted for by the dispensing practitioner;
>
> (c) All drugs are stored in a secure, locked room or cabinet to which the dispensing practitioner has the only key or lock combination;
>
> (d) All drugs are dispensed in accordance with NAC 639.745[4];

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[4] NAC 639.745 Duties of certain practitioners concerning dispensing of controlled substances and dangerous drugs. (NRS 639.070, 639.0727)

1. Each practitioner who is registered with the Board to dispense controlled substances and dangerous drugs, including, without limitation, a dispensing practitioner, and who dispenses such products for use by the practitioner's patients outside his or her presence shall:

(a) Keep complete, accurate and readily retrievable records of each controlled substance and dangerous drug purchased and dispensed. The record for each such product dispensed to a patient must include:

(1) The name of the patient and, if not readily available from the practitioner's records, the patient's address;

(2) The name, strength and quantity of the prescribed controlled substance or dangerous drug;

(3) The directions for use;

(4) The date the prescription was issued; and

(5) A unique identifying number.

(b) Maintain a separate file for the records concerning the purchase of each controlled substance listed in schedule II and a separate file for the records concerning the dispensing of each controlled substance listed in schedule II. Each prescription for a controlled substance or dangerous drug must be maintained in a separate file pursuant to the requirements set forth in NAC 453.480.

(c) Keep all controlled substances and dangerous drugs in a locked storage area. Access to the storage area must be restricted to the persons described in NRS 453.375.

(d) Ensure that each package or container in which a controlled substance is dispensed, except samples in the manufacturer's packages, is clearly labeled pursuant to the requirements set forth in NRS 639.2801.

(e) Ensure that the package or container in which a controlled substance or dangerous drug is dispensed complies with all state and federal packaging requirements.

(f) Be deemed to be a pharmacy as that term is used in NAC 639.926 and shall comply with that section.

2. A practitioner may dispense dangerous drugs or controlled substances only after the patient has been informed by the practitioner that the patient may request a written prescription and have it filled at another location of the patient's choosing.

> (e) No prescription is dispensed to a patient unless the dispensing practitioner is on-site at the facility;
>
> (f) All drugs are dispensed only to the patient personally at the facility;
>
> . . . (h) All drugs are dispensed only for medically necessary purposes and according to prevailing standards of care for practitioners practicing in the specialty claimed or practiced by the dispensing practitioner; and
>
> (i) The certificate for each dispensing technician employed at the facility is displayed in the room or cabinet in which drugs are stored.

31. NAC 639.742(4)(a)-(b) provide, in-part, with regard to the filling and dispensing of prescriptions at a facility, only the dispensing practitioner or a dispensing technician may enter the locked room or cabinet in which drugs are stored and/or remove drugs from stock.

32. NAC 639.945(1) provides in pertinent part that the following acts or practices by a holder of any license, certificate or registration issued by the Pharmacy Board or any employee of any business holding any such license, certificate or registration are declared to be, specifically but not by way of limitation, unprofessional conduct and conduct contrary to the public interest:

> ...(g) Supplying or diverting drugs, biologicals, medicines, substances or devices which are legally sold in pharmacies or by wholesalers, so that unqualified persons can circumvent any law pertaining to the legal sale of such articles.
>
> . . . (i) Performing any of his or her duties as the holder of a license, certificate or registration issued by the Board, or as the owner of a business or an entity licensed by the Board, in an incompetent, unskillful or negligent manner.
>
> . . . (n) Dispensing a drug as a dispensing practitioner to a patient with whom the dispensing practitioner does not have a bona fide therapeutic relationship.

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3. A record regarding the dispensing of a controlled substance or dangerous drug made and kept pursuant to this section must be maintained on paper or in a computer. If the record is:

(a) Maintained on paper, the record must:

(1) Include all the information required to be on the prescription pursuant to NRS 639.2353 and NAC 453.440;

(2) Set forth on the front of the prescription a certification initialed and dated by the patient that the patient has been informed by the practitioner in accordance with subsection 2 and that the patient has agreed to have the practitioner dispense the controlled substance or dangerous drug; and

(3) Be serially numbered and kept in numerical order in a single file for all dispensing practitioners, including, without limitation, physician assistants and advanced practice registered nurses, practicing at the same location.

(b) Maintained in a computer, the record must:

(1) Include all the information required to be on the prescription pursuant to NRS 639.2353 and NAC 453.440;

(2) Contain a certification, either in the computer or a separate paper document, initialed and dated by the patient that the patient has been informed by the practitioner in accordance with subsection 2 and that the patient has agreed to have the practitioner dispense the controlled substance or dangerous drug; and

(3) Be searchable for any item required by paragraph (a) of subsection 1 to be included in the record.

> (o) Prescribing a drug as a prescribing practitioner to a patient with whom the prescribing practitioner does not have a bona fide therapeutic relationship.

33. NAC 639.945(2) provides that the owner of any business or facility licensed, certified or registered by the Pharmacy Board is responsible for the acts of all personnel in his or her employ.

34. NAC 639.945(3) provides that, for purposes of applying Pharmacy Board regulations:

> [A] bona fide therapeutic relationship between the patient and practitioner shall be deemed to exist if the patient was examined in person, electronically or telephonically by the practitioner within the 6 months immediately preceding the date the practitioner dispenses or prescribes a drug to the patient and, as a result of the examination, the practitioner diagnosed a condition for which a given drug therapy is prescribed.

35. Accordingly, any physician or physician assistant who—whether by serving as a so-called "medical director" of, or by furnishing dangerous drugs or hypodermic devices to, or by some other relationship or circumstance with any "medical spa" wherein dangerous drugs or hypodermic devices are possessed, controlled, accessed, prescribed, administered, and/or dispensed—engages in conduct that violates any regulation adopted by the Pharmacy Board, including but not limited to NAC 639.742(1)-(3), (4)(a)-(b), or 639.945(1)-(3), has violated the Nevada Medical Practice Act and is subject to discipline by the Board.

II. THE PERTINENT HISTORY OF CRIMINAL AND UNPROFESSIONAL CONDUCT OF TAMMY LYNN HANKINS, PA-C

36. On or about March 1, 2012, in the Superior Court of the State of Arizona, in and for the County of Mohave (Arizona Court), in Case No. CR-2012-00287, a Grand Jury indicted Tammy Lynn Hankins (Hankins), a physician assistant who at that time held a license to practice medicine in the State of Arizona, on five (5) criminal counts of violations of Arizona law, including COUNT 1: FRAUDULENT SCHEMES AND ARTIFICES, CLASS 2 FELONY; COUNT 2: OBTAIN OR PROCURE THE ADMINISTRATION OF A NARCOTIC DRUG BY FRAUD, CLASS 3 FELONY; COUNT 3: OBTAINING A DANGEROUS DRUG BY FRAUD, CLASS 3 FELONY; COUNT 4: ATTEMPTED OBTAINING A DANGEROUS DRUG BY FRAUD, CLASS 4 FELONY; COUNT 5: ATTEMPTED OBTAINING A DANGEROUS DRUG BY FRAUD, CLASS 4 FELONY.

Hankins' Arizona Case History

37. On or about November 28, 2012, the Arizona Regulatory Board of Physician Assistants ("Arizona Board"), in Case No. PA-11-0127A, found Hankins, who had been the holder of a license to practice medicine as a physician assistant in the State of Arizona (License No. 2228), guilty of unprofessional conduct. Specifically, the Arizona Board found Hankins guilty with respect to two (2) patients, Patient JC and Patient MW, determining that Hankins deviated from the standard of care by inappropriately and excessively prescribing controlled substances to patients, risking addiction or overdose with a possible fatal outcome.

38. For the foregoing misconduct, the Arizona Board found Hankins guilty of unprofessional conduct pursuant to Arizona Revised Statute (ARS) §32-2501(18)(i) ("prescribing or dispensing controlled substances or prescription-only drugs for which the physician assistant is not approved or in excess of the amount authorized pursuant to this chapter"); ARS §32-2501(18)(j) ("any conduct or practice that is or might be harmful or dangerous to ·the health of a patient or the public"); ARS § 32-2501 (18)(p) ("failing or refusing to maintain adequate records on a patient"), and ARS § 32-2501(18)(z) ("failing to furnish legally requested information to the [Arizona Board] or its Investigator in a timely manner."). The Arizona Board also found that a practice restriction was needed in order to protect the public, and ordered that Hankins be issued a Letter of Reprimand, placed on probation for one (1) year with additional conditions and restrictions.

Arizona License Renewal by Hankins

39. Hankins's license to practice medicine as a physician assistant in the State of Arizona (License No. 2228) was due for renewal by June 1, 2013; Hankins did not renew, and her Arizona license expired by operation of law on May 20, 2014.

Arizona Criminal Conduct by Hankins

40. On or about September 14, 2013, the Arizona Court found that Hankins had knowingly, intelligently and voluntarily pled guilty to the offense of: COUNT 3: OBTAINING A DANGEROUS DRUG BY FRAUD, CLASS 3 FELONY. On or about October 2, 2013, the Arizona Court entered its judgment finding Hankins guilty of the foregoing charge, and sentenced Hankins to a suspended

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imposition of sentence and placing the Defendant on probation for a period of four (4) years commencing October 2, 2013, among other conditions of probation.

41. On or about January 17, 2014, pursuant to a Petition to Revoke Probation, the Arizona Court ordered that Hankins be held without bond pending hearing on said petition.

42. On or about August 11, 2014, the Arizona Court found Hankins guilty of violating her probation for the following crimes: OBTAINING A DANGEROUS DRUG BY FRAUD, CLASS 3 FELONY, and SEXUAL CONDUCT WITH A MINOR, CLASS 6 FELONY. For the first crime, Hankins was sentenced to two and one-half (2.5) years with the Arizona Department of Corrections, as a minimum sentence, to date from August 11, 2014, and was given credit for two hundred eight (208) days served prior to sentencing. For the second crime, Hankins was sentenced to one (1) additional year of incarceration, that sentence to run consecutive to the other.

43. Hankins was not licensed to practice medicine as a physician assistant in the State of Nevada before March 6, 2020.

44. Hankins does not hold an active Drug Enforcement Agency (DEA) registration, and has not held a valid registration since 2016. Hankins also does not hold and has never held an active license or registration with the Pharmacy Board.

III. RESPONDENT'S AIDING AND ABETTING THE UNLICENSED PRACTICE OF MEDICINE AT VIDA SPA, AND RELATED VIOLATIONS OF NEVADA PHARMACY LAWS

45. Vida Spa LLC, a Nevada Limited Liability Company, formed July 22, 2016, managed by Gisselle Platfoot ("Vida Spa"), and also doing business as "Vida Spa" and "Vita Medical Spa Las Vegas," is a self-described "medical spa" located at 3225 S Rainbow Blvd #107 and/or #206, Las Vegas, NV 89146.

46. At all times relevant to this Complaint, Vida Spa was licensed in Clark County, Nevada, under Clark County Business License No. 2003447.081-172, under the business category of "Cosmetology Establishment - Other Services." The owners listed under this license are Art Matrix, Inc. and Gisselle Platfoot.

47. At all times relevant to this Complaint, Vida Spa had no other business licenses except for the Clark County Business License No. 2003447.081-172.

48. Gisselle Platfoot, manager of Vida Spa, at all times relevant to this Complaint, did not hold a license to practice any healing art as a "provider of health care," as defined in NRS 629.031, from any occupational licensing board in the State of Nevada, and was not otherwise a practitioner as defined in NRS 639.0125.

49. Vida Spa is "a facility that provides health care, other than a medical facility" NRS 449.442. At all times relevant to this Complaint, neither Respondent, Hankins, Vida Spa, nor Gisselle Platfoot held a permit pursuant to NRS 449.442 to perform general anesthesia, conscious sedation or deep sedation. Additionally, neither Respondent, Hankins, Vida Spa, nor Gisselle Platfoot held a current accreditation by a nationally recognized organization approved by the State Board of Nevada Bureau of Healthcare Quality and Compliance.

50. At all times relevant to this Complaint, Vida Spa was not a "medical facility," as defined in NRS 449.0151, and not "the office" of a physician or physician assistant licensed pursuant to NRS chapter 630 or 633, qualified dentist, advanced practice registered nurse or podiatric physician, as provided in NRS 454.217.

51. On March 24, 2021, the Pharmacy Board issued a Citation and Order to Cease and Desist (Platfoot Citation) to Vida Spa and Gisselle Platfoot, whereby the Pharmacy Board determined that Vida Spa and Gisselle Platfoot were possessing, administering, prescribing and/or dispensing controlled substances and/or dangerous drugs for Nevada patients from Vida Spa in violation of federal and state law. Specifically, the Platfoot Citation states that Vida Spa and Gisselle Platfoot did not have a dispensing registration and are therefore prohibited from possessing, dispensing and/or administering controlled substances and/or dangerous drugs. The Platfoot Citation finds that Vida Spa and Gisselle Platfoot violated, attempted to violate, assisted or abetted in the violation of or conspired to violate, without limitation, NRS 453.226, NRS 453.316, NRS 453.321(1)(a), NRS 453.331 (l)(c)(d)(t)&(i), NRS 453.381(1), NRS 453.40l(l)(a), NRS 639.0727, NRS 639.100(1), NRS 639.23505, NRS 639.281, NRS 639.2813, NRS 639.310, NAC 639.742, 21 U.S.C. § 822(a)(2), 21 U.S.C. § 823(f), 21 U.S.C. § 84l(a), 21 U.S.C. § 842(a), 21 U.S.C. § 846 and 21 CFR §§ 1306.03-1306.05. The Platfoot Citation orders Vida Spa and Gisselle Platfoot, pursuant to NRS 639.2895(1), to immediately cease and desist possessing, administering,

prescribing and/or dispensing controlled substances for Nevada patients, and also assessed an administrative fine of five thousand dollars ($5,000.00) pursuant to NRS 639.2895(3).

52. Respondent was the so-called "medical director" of Vida Spa, from on or about May 29, 2020, through on or about July 1, 2020, for which service Respondent agreed to receive compensation from Vida Spa of three thousand dollars ($3,000) per month, and agreed to commit only one day of service per month to Vida Spa.

53. Based on misrepresentations made to Respondent by Gisselle Platfoot, Respondent understood that Vida Spa was a properly licensed and permitted medical facility, and that his role at Vida Spa was supposed to be limited to that of a consultant, and that all cosmetic procedures performed at Vida spa were non-invasive and being performed by properly licensed individuals. Respondent took no action to verify the misrepresentations of Gisselle Platfoot before agreeing to be medical director of Vida Spa.

54. Respondent entered into a written agreement with Vida Spa on or about May 29, 2020, before specifying a "start date" when Respondent would make a first visit to Vida Spa.

55. During Respondent's service as medical director of Vida Spa, which was licensed only as a "cosmetology establishment," Hankins, Gisselle Platfoot, and Vida Spa's employees and agents provided medical treatment and/or prescriptions and/or administered dangerous drugs and hypodermic devices and/or dispensed dangerous drugs and hypodermic devices to at least four (4) patients, as set forth below, which conduct by Hankins, Gisselle Platfoot and Vida Spa's employees and agents constitutes the practice of medicine in Nevada:

PATIENT A

56. Patient A was a twenty-nine (29) year-old female at the time of the events at issue.

57. At all times relevant to the treatment of Patient A, Respondent was the so-called "medical director" of Vida Spa.

58. At all times relevant to Hankins's treatment of Patient A, Hankins did not have a supervising physician, and did not have a supervising physician agreement on file with and accepted

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by the Board, and was therefore expressly prohibited from performing medical services pursuant to NAC 630.375(2).

59. The medical services rendered to Patient A by Hankins did not occur in a life-threatening or emergency situation.

60. On June 1, 2020, Hankins, who did not have her own DEA registration and controlled substance license issued by the NSBOP, utilized Respondent's prescribing credentials to issue prescriptions to Patient A for Oxycodone-acetaminophen (a Schedule II Controlled Substance) 5-325 mg tablets, 12 ct. for 3 days; Alprazolam (a Schedule IV Controlled Substance) 1 mg tablets, 4 ct. for 2 days; Promethazine 25 mg tablets, 10 ct. for 2 days, Sulfameth/Trimethprim 800/160 mg tablets, 20 ct. for 10 days.

61. Hankins, or a Vida Spa employee or agent acting at Hankins's direction, presented an already completed written prescription, with the patient's name and with the corresponding medications, quantities and doses filled-in, to Respondent, who then signed the prescription with the understanding that the controlled substances and dangerous drugs would then be used by Hankins on Patient A for the purpose of performing an invasive surgical procedure on Patient A.

62. The material purpose for prescribing the controlled substances to Patient A was conscious sedation and pain control for an invasive surgical procedure to be performed on Patient A.

63. Respondent's express purpose in signing the already completed written prescriptions for controlled substances for Patient A was to offer conscious sedation and pain control to Patient A for the invasive surgical procedure to be performed on Patient A by Hankins at Vida Spa.

64. The written prescription issued for Patient A in this manner was then presented to Pharmacy Santa Maria, at 3827 E. Sunset Rd, Ste L, Las Vegas, Nevada 89120, which filled the prescription, and the controlled substances and dangerous drugs were then delivered directly to Vida Spa. The controlled substances and dangerous drugs were accepted at Vida Spa by Hankins, or by a Vida Spa employee or agent acting at Hankins's direction, and then administered to Patient A by Hankins, or by a Vida Spa employee or agent supervised directly by Hankins.

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65. Hankins, a Vida Spa employee or agent acting at Hankins's direction in the Hankins's presence, or Patient A at the direction and in the presence of Hankins, directly administered to Patient A the controlled substances, Alprazolam and Oxycodone-acetominophen, by ingestion.

66. Respondent did not see or treat Patient A, and did not direct or supervise Hankins in her treatment of Patient A.

67. On June 2, 2020, at Vida Spa, Hankins performed a liposuction procedure on the upper and lower abdomen and arms of Patient A, and a fat grafting procedure to Patient A's breasts. Hankins administered tumescent anesthesia with Lidocaine and Epinephrine to Patient A, which Hankins obtained, without a patient-specific prescription or an order from a licensed practitioner or a practitioner otherwise authorized to perform medical services for Patient A, from a general store of controlled substances and dangerous drugs obtained and maintained by Vida Spa in violation of federal and state law.

68. Hankins was not supervised by any licensed physician while performing this invasive surgical procedure on Patient A at Vida Spa.

PATIENT B

69. Patient B was a forty (40) year-old female at the time of the events at issue.

70. At all times relevant to the treatment of Patient B, Respondent was the so-called "medical director" of Vida Spa.

71. At all times relevant to Hankins's treatment of Patient B, Hankins did not have a supervising physician, and did not have a supervising physician agreement on file with and accepted by the Board, and was therefore expressly prohibited from performing medical services pursuant to NAC 630.375(2).

72. The medical services rendered to Patient B by Hankins did not occur in a life-threatening or emergency situation.

73. On June 2, 2020, Hankins, who did not have her own DEA registration and controlled substance license issued by the NSBOP, utilized Respondent's prescribing credentials to issue prescriptions to Patient B for Oxycodone-acetaminophen (a Schedule II Controlled Substance)

5-325 mg tablets, 12 ct. for 3 days; Alprazolam (a Schedule IV Controlled Substance) 1 mg tablets, 4 ct. for 2 days; Promethazine 25 mg tablets, 10 ct. for 2 days, Sulfameth/Trimethprim 800/160 mg tablets, 20 ct. for 10 days.

74. Hankins, or a Vida Spa employee or agent acting at Hankins's direction, presented an already completed written prescription, with the patient's name and with the corresponding medications, quantities and doses filled-in, to Respondent, who then signed the prescription with the understanding that the controlled substances and dangerous drugs would then be used by Hankins on Patient B for the purpose of performing an invasive surgical procedure on Patient B.

75. The material purpose for prescribing the controlled substances to Patient B was conscious sedation and pain control for an invasive surgical procedure to be performed on Patient B.

76. Respondent's express purpose in signing the already completed written prescriptions for controlled substances for Patient B was to offer conscious sedation and pain control to Patient B for the invasive surgical procedure to be performed on Patient B by Hankins at Vida Spa.

77. The written prescription issued for Patient B in this manner was then presented to Pharmacy Santa Maria, at 3827 E. Sunset Rd, Ste L, Las Vegas, Nevada 89120, which filled the prescription, and the controlled substances and dangerous drugs were then delivered directly to Vida Spa. The controlled substances and dangerous drugs were accepted at Vida Spa by Hankins, or by a Vida Spa employee or agent acting at Hankins's direction, and then administered to Patient B by Hankins, or by a Vida Spa employee or agent supervised directly by Hankins.

78. Hankins, a Vida Spa employee or agent acting at Hankins's direction in the Hankins's presence, or Patient B at the direction and in the presence of Hankins, directly administered to Patient B the controlled substances, Alprazolam and Oxycodone-acetaminophen, by ingestion.

79. Respondent did not see or treat Patient B, and did not direct or supervise Hankins in her treatment of Patient B.

80. On June 3, 2020, at Vida Spa, Hankins performed a liposuction procedure on Patient B. Hankins administered tumescent anesthesia with Lidocaine and Epinephrine to Patient B,

which Hankins obtained, without a patient-specific prescription or an order from a licensed practitioner or a practitioner otherwise authorized to perform medical services for Patient B, from a general store of controlled substances and dangerous drugs obtained and maintained by Vida Spa in violation of federal and state law.

81. Hankins was not supervised by any licensed physician while performing this invasive surgical procedure on Patient B at Vida Spa.

PATIENT C

82. Patient C was a thirty-five (35) year-old female at the time of the events at issue.

83. At all times relevant to the treatment of Patient C, Respondent was the so-called "medical director" of Vida Spa.

84. At all times relevant to Hankins's treatment of Patient C, Hankins did not have a supervising physician, and did not have a supervising physician agreement on file with and accepted by the Board, and was therefore expressly prohibited from performing medical services pursuant to NAC 630.375(2).

85. The medical services rendered to Patient C by Hankins did not occur in a life-threatening or emergency situation.

86. On June 3, 2020, Hankins, who did not have her own DEA registration and controlled substance license issued by the NSBOP, utilized Respondent's prescribing credentials to issue prescriptions to Patient C for Oxycodone-acetaminophen (a Schedule II Controlled Substance) 5-325 mg tablets, 12 ct. for 3 days; Alprazolam (a Schedule IV Controlled Substance) 1 mg tablets, 4 ct. for 2 days; Promethazine 25 mg tablets, 10 ct. for 2 days, Sulfameth/Trimethprim 800/160 mg tablets, 20 ct. for 10 days.

87. Hankins, or a Vida Spa employee or agent acting at Hankins's direction, presented an already completed written prescription, with the patient's name and with the corresponding medications, quantities and doses filled-in, to Respondent, who then signed the prescription with the understanding that the controlled substances and dangerous drugs would then be used by Hankins on Patient C for the purpose of performing an invasive surgical procedure on Patient C.

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88. The material purpose for prescribing the controlled substances to Patient C was conscious sedation and pain control for an invasive surgical procedure to be performed on Patient C.

89. Respondent's express purpose in signing the already completed written prescriptions for controlled substances for Patient C was to offer conscious sedation and pain control to Patient C for the invasive surgical procedure to be performed on Patient C by Hankins at Vida Spa.

90. The written prescription issued for Patient C in this manner was then presented to Pharmacy Santa Maria, at 3827 E. Sunset Rd, Ste L, Las Vegas, Nevada 89120, which filled the prescription, and the controlled substances and dangerous drugs were then delivered directly to Vida Spa. The controlled substances and dangerous drugs were accepted at Vida Spa by Hankins, or by a Vida Spa employee or agent acting at Hankins's direction, and then administered to Patient C by Hankins, or by a Vida Spa employee or agent supervised directly by Hankins.

91. Hankins, a Vida Spa employee or agent acting at Hankins's direction in the Hankins's presence, or Patient C at the direction and in the presence of Hankins, directly administered to Patient C the controlled substances, Alprazolam and Oxycodone-acetaminophen, by ingestion.

92. Respondent did not see or treat Patient C, and did not direct or supervise Hankins in her treatment of Patient C.

93. On June 4, 2020, at Vida Spa, Hankins performed a liposuction procedure on the upper back and flanks of Patient C. On information and belief, Hankins administered tumescent anesthesia with Lidocaine and Epinephrine to Patient C, which Hankins obtained, without a patient-specific prescription or an order from a licensed practitioner or a practitioner otherwise authorized to perform medical services for Patient C, from a general store of controlled substances and dangerous drugs obtained and maintained by Vida Spa in violation of federal and state law.

94. Hankins was not supervised by any licensed physician while performing this invasive surgical procedure on Patient C at Vida Spa.

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PATIENT D

95. Patient D was a forty (40) year-old female at the time of the events at issue.

96. At all times relevant to the treatment of Patient D, Respondent was the so-called "medical director" of Vida Spa.

97. At all times relevant to Hankins's treatment of Patient D, Hankins did not have a supervising physician, and did not have a supervising physician agreement on file with and accepted by the Board, and was therefore expressly prohibited from performing medical services pursuant to NAC 630.375(2).

98. The medical services rendered to Patient D by Hankins did not occur in a life-threatening or emergency situation.

99. On June 4, 2020, Hankins, who did not have her own DEA registration and controlled substance license issued by the NSBOP, utilized the Respondent's prescribing credentials to issue prescriptions to Patient D for Oxycodone-acetaminophen (a Schedule II Controlled Substance) 5-325 mg tablets, 12 ct. for 3 days; Alprazolam (a Schedule IV Controlled Substance) 1 mg tablets, 4 ct. for 2 days; Promethazine 25 mg tablets, 10 ct. for 2 days, Sulfameth/Trimethprim 800/160 mg tablets, 20 ct. for 10 days.

100. Hankins, or a Vida Spa employee or agent acting at Hankins's direction, presented an already completed written prescription, with the patient's name and with the corresponding medications, quantities and doses filled-in, to Respondent, who then signed the prescription with the understanding that the controlled substances and dangerous drugs would then be used by Hankins on Patient D for the purpose of performing an invasive surgical procedure on Patient D.

101. The material purpose for prescribing the controlled substances to Patient D was conscious sedation and pain control for an invasive surgical procedure to be performed on Patient D.

102. Respondent's express purpose in signing the already completed written prescriptions for controlled substances for Patient D was to offer conscious sedation and pain control to Patient D for the invasive surgical procedure to be performed on Patient D by Hankins at Vida Spa.

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103. The written prescription issued for Patient D in this manner was then presented to Pharmacy Santa Maria, at 3827 E. Sunset Rd, Ste L, Las Vegas, Nevada 89120, which filled the prescription, and the controlled substances and dangerous drugs were then delivered directly to Vida Spa. The controlled substances and dangerous drugs were accepted at Vida Spa by Hankins, or by a Vida Spa employee or agent acting at Hankins's direction, and then administered to Patient D by Hankins, or by a Vida Spa employee or agent supervised directly by Hankins.

104. Hankins, a Vida Spa employee or agent acting at Hankins's direction in the Hankins's presence, or Patient D at the direction and in the presence of Hankins, directly administered to Patient D the controlled substances, Alprazolam and Oxycodone-acetominophen, by ingestion.

105. Respondent did not see or treat Patient D, and did not direct or supervise Hankins in her treatment of Patient D.

106. On June 5, 2020, at Vida Spa, Hankins performed a liposuction procedure on the abdomen, flanks back and "bra straps" of Patient D, and a fat transfer to the buttocks of Patient D. Hankins administered tumescent anesthesia with Lidocaine and Epinephrine to Patient D, which Hankins obtained, without a patient-specific prescription or an order from a licensed practitioner or a practitioner otherwise authorized to perform medical services for Patient D, from a general store of controlled substances and dangerous drugs obtained and maintained by Vida Spa in violation of federal and state law.

107. Hankins was not supervised by any licensed physician while performing this invasive surgical procedure on Patient D at Vida Spa.

IV. RESPONDENT'S MEDICAL DIRECTORSHIP OF VIDA SPA

108. At all times relevant to this Complaint, Hankins did not consult with Respondent regarding any procedures she performed or participated in while Respondent was medical director of Vida Spa.

109. At all times relevant to this Complaint, Respondent was not present during any procedures she performed.

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110. At all times relevant to this Complaint, Respondent was not present at Vida Spa during its regular business hours, nor during any times relevant to this Complaint.

111. Despite Hankins's public history of criminal and unprofessional conduct, and incarceration, Respondent, as medical director of Vida Spa, did not investigate or exercise ordinary and reasonable diligence to determine whether Hankins was authorized to practice medicine at Vida Spa, and took no action to prohibit the unlicensed practice of medicine at Vida Spa by Hankins, Gisselle Platfoot, and Vida Spa's employees and agents.

112. Respondent was an independent contractor of Vida Spa.

113. Respondent was not a manager, officer or employee of Vida Spa.

114. Respondent had no ownership or member interest in Vida Spa, nor did he have authority, by contract or otherwise, to manage the affairs of Vida Spa.

115. Neither Gisselle Platfoot nor any of Vida Spa's employees, agents or other independent contractors were employed by Respondent during the time Respondent served as medical director of Vida Spa.

116. Respondent has held a valid controlled substance registration issued by the Pharmacy Board (License No. CS09487) since July 1, 1998.

117. At all times relevant to this Complaint, Respondent did not hold a dispensing practitioner license issued by the Pharmacy Board.

118. Respondent did not apply to the Pharmacy Board for a certificate of registration to dispense controlled substances or dangerous drugs at Vida Spa.

119. While medical director of Vida Spa, Respondent permitted Gisselle Platfoot and Vida Spa's employees and agents to utilize his medical license and controlled substance registration to prescribe and procure dangerous drugs and controlled substances, which are available only by prescription, for customers of Vida Spa and use by Gisselle Platfoot and Vida Spa's employees and agents in providing medical services to patients at Vida Spa.

120. While medical director of Vida Spa, Respondent permitted dangerous drugs and controlled substances to be left unlocked and readily accessible at Vida Spa in the sole possession,

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custody and control of Gisselle Platfoot and Vida Spa's employees and agents, and beyond the supervision or restraint of Respondent.

121. All of the dangerous drugs and controlled substances left in the custody and control of Gisselle Platfoot and Vida Spa's employees and agents were at no time stored in a secure, locked room or cabinet accessible only by Respondent. Gisselle Platfoot and Vida Spa's employees and agents had unrestricted access to dangerous drugs, controlled substances, hypodermic devices and other dangerous medical devices and poisonous substances.

122. Gisselle Platfoot and Vida Spa's employees and agents possessed, controlled, stored, prescribed, administered and/or dispensed controlled substances, dangerous drugs and hypodermic devices without a dispensing license as required by the Pharmacy Board.

123. Respondent was not present when Hankins, Gisselle Platfoot, and Vida Spa's employees and agents possessed, controlled, stored, prescribed, administered and/or dispensed controlled substances, dangerous drugs and hypodermic devices obtained using Respondent's medical license and controlled substance registration.

124. Respondent neither received nor accounted for the controlled substances, dangerous drugs and hypodermic devices possessed, controlled, stored, prescribed, administered and/or dispensed by Gisselle Platfoot and Vida Spa's employees and agents.

125. Respondent did not see, examine, diagnose or otherwise have a bona fide therapeutic relationship with any of the four (4) patients to whom Hankins, Gisselle Platfoot, and Vida Spa's employees and agents provided medical treatment(s) and/or prescriptions and/or administered dangerous drugs and hypodermic devices and/or dispensed dangerous drugs and hypodermic devices.

126. Respondent was not on-site at Vida Spa or otherwise immediately available when Hankins, Gisselle Platfoot, and Vida Spa's employees or agents provided medical treatment and/or issued prescriptions for, administered and dispensed controlled substances, dangerous drugs and hypodermic devices to these four (4) patients.

127. Respondent did not personally administer or dispense at Vida Spa, or personally direct any of Gisselle Platfoot, Hankins or any other of Vida Spa's employees or agents to

administer or dispense at Vida Spa, and did not exercise sufficient control of Vida Spa operations to ensure that dangerous drugs and controlled substances were administered and dispensed only for medically necessary purposes and according to prevailing standards of care.

128. Respondent supplied controlled substances, dangerous drugs and hypodermic devices to Gisselle Platfoot, Hankins, and Vida Spa's employees or agents and permitted unqualified persons to circumvent laws pertaining to the legal sale of such articles, and allowed others to utilize his medical credentials and controlled substance registration to administer, dispense and prescribe controlled substances, dangerous drugs and hypodermic devices to those whom he did not have a bona fide therapeutic relationship.

129. Respondent failed to ensure that he had the required ownership or employment relationship with respect to Vida Spa and its employees and agents to comply with the requirements of NAC 630.800-830.

130. Respondent failed to ensure that he had the legal and practical control of Vida Spa's operations to effectively control the conduct of Hankins, Gisselle Platfoot and Vida Spa's employees and agents in performance of all medical activities as his medical assistants or otherwise, in order to prevent prohibited conduct and ensure that his medical assistants possessed the knowledge, skill and training to perform their tasks safely and properly.

COUNT I

NRS 630.306(1)(b)(3) – Engaging in Conduct that Violates Pharmacy Board Regulations

131. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

132. NRS 630.306(1)(b)(3) provides that engaging in conduct that violates a regulation adopted by the Pharmacy Board is grounds for initiating disciplinary action or denying licensure.

133. Including but not limited to the conduct described herein, Respondent engaged in conduct that violates regulations adopted by the Pharmacy Board, specifically including but not limited to, NAC 639.742(1)-(3), (4)(a)-(b), 639.945(1)-(3), and NAC 639.742(1).

134. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

COUNT II

NRS 630.3062(1)(h) – Unauthorized and Otherwise Inappropriate Prescribing of Controlled Substances

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

136. Pursuant to NRS 630.3062(1)(h), fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, administering or dispensing of a controlled substance listed in schedule II, III or IV is grounds for disciplinary action or denying licensure.

137. As demonstrated by, but not limited to, the above-outlined facts, Respondent issued unauthorized and otherwise inappropriate prescriptions for schedule II and IV controlled substances, Oxycodone-acetaminophen and Alprazolam, respectively, to Patients A, B, C and D by signing prescriptions for controlled substances for patients he did not see, examine or diagnose, and with whom he did not have a bona fide therapeutic relationship.

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

COUNT III

NRS 630.306(1)(r) – Failure to Supervise Medical Assistants

139. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

140. Pursuant to NRS 630.306(1)(r), failure to supervise adequately a medical assistant pursuant to the regulations of the Board is grounds for discipline or denying licensure.

141. Pursuant to NAC 630.230(1)(g), a physician shall not allow any person to act as a medical assistant in the treatment of a patient of the physician, unless the medical assistant has sufficient training to provide the assistance.

142. Pursuant to NAC 630.230(1)(h), a physician shall not fail to provide adequate supervision of a medical assistant who is employed or supervised by the physician, including, without limitation, supervision provided in the manner described in NAC 630.810 or 630.820.

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143. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed to supervise adequately medical assistants at Vida Spa in violation of NAC 630.230(1)(g) and (h), and NAC 630.810 or 630.820.

144. 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);

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 11th day of August, 2021.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

AARON B. FRICKE, ESQ.
General Counsel
9600 Gateway Drive
Reno, Nevada 89521
Tel: (702) 486-3813
Email: africke@medboard.nv.gov
Attorney for the Investigative Committee

VERIFICATION

STATE OF NEVADA)
: ss.
COUNTY OF CLARK)

Victor M. Muro, 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 11 day of August, 2021.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: V M Muro MD

VICTOR M. MURO, M.D.
Chairman of the Investigative Committee

CERTIFICATE OF SERVICE

I hereby certify that I am employed by the Nevada State Board of Medical Examiners and that on the 11th day of August, 2021, I served a file-stamped copy of the foregoing **COMPLAINT**, via U.S. Certified Mail to the following parties:

Salvador Garcia Borromeo, M.D.
c/o Laurence J. Weinsteen, Esq.
Larry Jordan Weinsteen CHTD.
3225 McLeod Drive, Ste. 100
Las Vegas, NV 89121
Certified Mail Receipt No.: 9171 9690 0935 0252 1561 87

DATED this 11th day of August, 2021.

MERCEDES FUENTES
Legal Assistant
Nevada State Board of Medical Examiners

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

EXHIBIT 106

EXHIBIT 106

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **SALVADOR GARCIA BORROMEO, M.D.,** **Respondent.**	**Case No. 21-12423-1** FILED SEP 10 2021 NEVADA STATE BOARD OF MEDICAL EXAMINERS By:

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

SETTLEMENT AGREEMENT

The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board), by and through Aaron B. Fricke, Esq., General Counsel for the Board and attorney for the IC, and Salvador Garcia Borromeo, M.D. (Respondent), a licensed physician in Nevada, assisted by his attorney, Laurence J. Weinsteen, of the Law Offices of Larry Jordan Weinsteen Chtd., hereby enter into this Settlement Agreement (Agreement) based on the following:[1]

A. BACKGROUND

1. Respondent is a medical doctor currently licensed in active status by the Board pursuant to Chapter 630 of the Nevada Revised Statutes (NRS) and Chapter 630 of the Nevada Administrative Code (NAC) (collectively, the Medical Practice Act). His license was originally issued on August 24, 1998 (License No. 8770).

2. On August 11, 2021, in Case No. 21-12423-1, the IC filed a formal Complaint (Complaint) charging Respondent with violating the Medical Practice Act. Specifically, the Complaint alleges as follows: Count I, violation of NRS 630.306(1)(b)(3), Engaging in Conduct that Violates Pharmacy Board Regulations; Count II, violation of NRS 630.3062(1)(h), Unauthorized and Otherwise Inappropriate Prescribing of Controlled Substances; and Count III, violation of NRS 630.306(1)(r), Failure to Supervise Medical Assistants.

[1] All agreements and admissions made by Respondent are solely for final disposition of these matters and any subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, Respondent's agreements and admissions are not intended or made for any other use, such as in the context of another state or federal government regulatory agency proceeding, state or federal civil or criminal proceeding, any state or federal court proceeding, or any credentialing or privileges matter.

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

4. Respondent was properly served with a copy of the Complaint, has reviewed and understands the Complaint, and has had the opportunity to consult with competent counsel concerning the nature and significance of the Complaint.

5. Respondent is hereby advised of his rights regarding these administrative matters, and of his opportunity to defend against the allegations in the Complaint. Specifically, Respondent has certain rights in these administrative matters as set out by the United States Constitution, the Nevada Constitution, the Medical Practice Act, the Nevada Open Meeting Law (OML), which is contained in NRS Chapter 241, and the Nevada Administrative Procedure Act (APA), which is contained in NRS Chapter 233B. These rights include the right to a formal hearing on the allegations in the Complaint, the right to representation by counsel, at his own expense, in the preparation and presentation of his defense, the right to confront and cross-examine the witnesses and evidence against him, the right to written findings of fact, conclusions of law and order reflecting the final decision of the Board, and the right to judicial review of the Board's order, if the decision is adverse to him.

6. Respondent understands that, under the Board's charge to protect the public by regulating the practice of medicine, the Board may take disciplinary action against Respondent's license, including license probation, license suspension, license revocation and imposition of administrative fines, as well as any other reasonable requirement or limitation, if the Board concludes that Respondent violated one or more provisions of the Medical Practice Act.

7. Respondent understands and agrees that this Agreement, by and between Respondent and the IC, is not with the Board, and that the IC will present this Agreement to the Board for consideration in open session at a duly noticed and scheduled meeting. Respondent understands that the IC shall advocate for the Board's approval of this Agreement, but that the Board has the right to decide in its own discretion whether or not to approve this Agreement. Respondent further understands and agrees that if the Board approves this Agreement, then the terms and conditions enumerated below shall be binding and enforceable upon him and the Board.

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

B. TERMS & CONDITIONS

NOW, THEREFORE, in order to resolve the matters addressed herein, i.e., the matters with regard to the Complaint, Respondent and the IC hereby agree to the following terms and conditions:

1. Jurisdiction. Respondent is, and at all times relevant to the Complaint has been, a physician licensed to practice medicine in Nevada subject to the jurisdiction of the Board as set forth in the Medical Practice Act.

2. Representation by Counsel/Knowing, Willing and Intelligent Agreement. Respondent acknowledges he is represented by counsel, and wishes to resolve the matters addressed herein with said counsel. Respondent agrees that if representation by counsel in this matter materially changes prior to entering into this Agreement and for the duration of this Agreement, that counsel for the IC will be timely notified of the material change. Respondent agrees that he knowingly, willingly and intelligently enters into this Agreement after deciding to have a full consultation with and upon the advice of legal counsel.

3. Waiver of Rights. In connection with this Agreement, and the associated terms and conditions, Respondent knowingly, willingly and intelligently waives all rights in connection with these administrative matters. Respondent hereby knowingly, willingly and intelligently waives all rights arising under the United States Constitution, the Nevada Constitution, the Medical Practice Act, the OML, the APA, and any other legal rights that may be available to him or that may apply to him in connection with the administrative proceedings resulting from the Complaint filed in this matter, including defense of the Complaint, adjudication of the allegations set forth in the Complaint, and imposition of any disciplinary actions or sanctions ordered by the Board. Respondent agrees to settle and resolve the allegations of the Complaint as set out by this Agreement, without a hearing or any further proceedings and without the right to judicial review.

4. Acknowledgement of Reasonable Basis to Proceed. Respondent acknowledges that the IC believes it has a reasonable basis to allege that Respondent engaged in conduct that is grounds for discipline pursuant to the Medical Practice Act. The IC acknowledges that Respondent is agreeing to resolve this matter to avoid the costs of hearing and potential

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subsequent litigation. Respondent asserts that if these matters were to proceed to hearing, he has evidence, witnesses, expert witness(es) and defenses to the count/claim alleged in the Complaint, but for the purposes of resolving these matters and for no other purpose, Respondent waives the presentation of evidence, witnesses, expert witnesses, and defenses in order to effectuate this Agreement.

5. Consent to Entry of Order. In order to resolve the Complaint pending against Respondent, Respondent hereby agrees that the Board may issue an order finding that Respondent engaged in conduct that is grounds for discipline pursuant to the Medical Practice Act. Accordingly, the following terms and conditions are hereby agreed upon:

a. Respondent admits to Count I, violation of NRS 630.306(1)(b)(3), Engaging in Conduct that Violates Pharmacy Board Regulations, Count II, violation of NRS 630.3062(1)(h), Unauthorized and Otherwise Inappropriate Prescribing of Controlled Substances, and Count III, violation of NRS 630.306(1)(r), Failure to Supervise Medical Assistants, as alleged in the Complaint.

b. Respondent shall pay a fine in the amount of five thousand dollars ($5,000) within sixty (60) days of the Board's acceptance, adoption and approval of this Agreement.

c. Respondent shall pay the costs and expenses incurred in the investigation and prosecution of the above-referenced matter within sixty (60) days of the Board's acceptance, adoption and approval of this Agreement, in the amount of one thousand four hundred fifty-two dollars and twenty-two cents ($1,452.22).

d. This Agreement shall be reported to the appropriate entities and parties as required by law, including, but not limited to, the National Practitioner Data Bank.

e. Respondent shall receive a Public Letter of Reprimand.

f. The remaining counts of the Complaint, if any, and any other claims arising from the Board's corresponding investigative case file(s), shall be dismissed with prejudice.

6. Release From Liability. In execution of this Agreement, Respondent understands and agrees that the State of Nevada, the Board, and each of its members, staff, counsel, investigators, experts, peer reviewers, committees, panels, hearing officers, consultants and agents

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are immune from civil liability for any decision or action taken in good faith in response to information acquired by the Board. NRS 630.364(2)(a). Respondent agrees to release the State of Nevada, the Board, and each of its members, staff, counsel, investigators, experts, peer reviewers, committees, panels, hearing officers, consultants and agents from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims and demands whatsoever, known and unknown, in law or equity, that Respondent ever had, now has, may have or claim to have, against any or all of the persons, government agencies or entities named in this paragraph arising out of, or by reason of, this investigation, this Agreement or the administration of the case referenced herein.

7. Procedure for Adoption of Agreement The IC and counsel for the IC shall recommend approval and adoption of the terms and conditions of this Agreement by the Board in resolution of the Complaint at an upcoming Board meeting at the Board's earliest convenience, and Respondent hereby waives notice of the same, whether under the United States Constitution, the Nevada Constitution, the Medical Practice Act, the OML, the APA, or otherwise. In the course of seeking Board acceptance, approval and adoption of this Agreement, counsel for the IC may communicate directly with the Board staff and the adjudicating members of the Board.

Respondent acknowledges that such contacts and communications may be made or conducted ex parte, without notice or opportunity to be heard on his part until the public Board meeting where this Agreement is discussed, and that such contacts and communications may include, but may not be limited to, matters concerning this Agreement, the Complaint and any and all information of every nature whatsoever related to these matters. The IC and its counsel agree that Respondent and/or Counsel for the Respondent may appear at the Board meeting where this Agreement is discussed and, if requested, respond to any questions that may be addressed to the IC or the IC's counsel.

8. Effect of Acceptance of Agreement by Board. In the event the Board accepts, approves and adopts this Agreement, the Board shall issue a final order, making this Agreement an order of the Board, and, pending full compliance with the terms herein, the case shall be closed and any and all remaining claims arising out of the Complaint shall be dismissed with prejudice.

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9. Effect of Rejection of Agreement by Board. In the event the Board does not accept, approve and adopt this Agreement, this Agreement shall be null, void and of no force and effect except as to the following agreement regarding adjudications: (1) Respondent agrees that, notwithstanding rejection of this Agreement by the Board, nothing contained in this Agreement and nothing that occurs pursuant to efforts of the IC to seek the Board's acceptance of this Agreement shall disqualify any member of the adjudicating panel of the Board from considering the Complaint and from participating in disciplinary proceedings against Respondent, including adjudication of this case; and (2) Respondent further agrees that he shall not seek to disqualify any such member absent evidence of bad faith.

10. Binding Effect. If approved by the Board, Respondent understands that this Agreement is a binding and enforceable contract upon Respondent and the Board.

11. Forum Selection Clause. The parties agree that in the event either party is required to seek enforcement of this Agreement in district court, the parties consent to such jurisdiction and agree that jurisdiction shall be in the Second Judicial District Court, State of Nevada, Washoe County.

12. Attorneys' Fees and Costs. The parties agree that in the event an action is commenced in district court to enforce any provision of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

13. Failure to Comply With Terms. Should Respondent fail to comply with any term or condition of this Agreement once the Agreement has been accepted, approved and adopted by the Board, the IC shall be authorized to immediately suspend Respondent's license to practice medicine in Nevada pending an Order To Show Cause Hearing on revocation, which will be duly noticed. Failure to comply with the terms of this Agreement, including failure to pay any fines, costs, expenses or fees owed to the Board, is a failure to comply with an order of the Board, which may result in additional disciplinary action being taken against Respondent. NRS 630.3065(2)(a).

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Further, Respondent's failure to remit payment to the Board for monies agreed to be paid as a condition of this Agreement may subject Respondent to any civil and administrative collection efforts available.

DATED this 11th day of August, 2021.

INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

AARON B. FRICKE, J.D.
General Counsel
9600 Gateway Drive
Reno, NV 89521
Tel: (775) 688-2559
Email: africke@medboard.nv.gov
Attorney for the Investigative Committee

DATED this 6th day of August, 2021

LARRY JORDAN WEINSTEEN CHTD.

By: _____

LAURENCE J. WEINSTEEN, Esq.
3225 McLeod Drive, Ste. 100
Las Vegas, NV 89121
Tel: (702) 383-3330
Attorney for Respondent

DATED this 6 day of August, 2021.

By: _____

SALVADOR GARCIA BORROMEO, M.D.,
Nevada License No. 8770
Respondent

OFFICE OF THE GENERAL COUNSEL
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Reno, Nevada 89521
(775) 688-2559

Further, Respondent's failure to remit payment to the Board for monies agreed to be paid as a condition of this Agreement may subject Respondent to any civil and administrative collection efforts available.

DATED this _____ day of _____, 2021.

INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

By:_____

AARON B. FRICKE, J.D.
General Counsel
9600 Gateway Drive
Reno, NV 89521
Tel: (775) 688-2559
Email: africke@medboard.nv.gov
Attorney for the Investigative Committee

DATED this 6th day of August, 2021

LARRY JORDAN WEINSTEEN CHTD.

By:_____

LAURENCE J. WEINSTEEN, Esq.
3225 McLeod Drive, Ste. 100
Las Vegas, NV 89121
Tel: (702) 383-3330
Attorney for Respondent

DATED this 6 day of August, 2021.

By: _____

SALVADOR GARCIA BORROMEO, M.D.,
Nevada License No. 8770
Respondent

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Reno, Nevada 89521
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ORDER

IT IS HEREBY ORDERED that, the foregoing Settlement Agreement (Case No. 21-12423-1) was approved and accepted by the Nevada State Board of Medical Examiners on the 10th day of September, 2021.

DATED this 10th day of September, 2021.

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____
VICTOR M. MURO, M.D.
Board President

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
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BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: MARYANNE DEFOREST PHILLIPS, M.D., Respondent.	Case No. 21-10032-1 FILED DEC 16 2022 NEVADA STATE BOARD OF MEDICAL EXAMINERS By:

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
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THIRD SUPPLEMENTAL PREHEARING CONFERENCE STATEMENT OF THE INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board) submits the following Third Supplemental Prehearing Conference Statement in accordance with NAC 630.465 and the Hearing Officer's Second Amended Scheduling Order, filed on October 14, 2022. (**New items are in bold font**)

I. LIST OF WITNESSES

The IC of the Board lists the following witnesses whom it may call at the hearing on the charges in the Complaint against Respondent filed herein:

a. Johnna LaRue, Deputy Chief of Investigations
Nevada State Board of Medical Examiners

Ms. LaRue is expected to verify documentary evidence obtained during the investigation of this case and testify regarding the investigation of this matter.

b. Maryanne Deforest Phillips, M.D.

Dr. Phillips is expected to testify regarding the facts and circumstances surrounding the formal Complaint in this case.

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c. Patient A[1]

Patient A was a patient of Respondent in this case and she is expected to testify as to the facts and circumstances surrounding the formal Complaint in this matter.

d. Margaret Francis Byrd, Legal Assistant
Nevada State Board of Medical Examiners

Ms. Byrd is a Legal Assistant employed by the Nevada State Board of Medical Examiners and is expected to testify regarding facts and circumstances surrounding video evidence submitted as exhibits by the Investigative Committee.

e. Tiffany D. McCormack, M.D., F.A.C.S.

Dr. McCormack is a Board-Certified Plastic Surgeon and is licensed to practice medicine in the State of Nevada. Dr. McCormack has conducted a medical review of this case and is expected to testify regarding her medical review of this matter and the applicable standard of care.

f. Mark E. Janes, M.D.

Dr. Janes is a Board-Certified Anesthesiologist and is licensed to practice medicine in the State of Nevada. Dr. Janes has conducted a medical review of this case and is expected to testify regarding his medical review of this matter and the applicable standard of care.

g. All witnesses identified by Respondent in her prehearing conference statement and/or in any subsequent amended, revised or supplemental prehearing conference statement, or list of witnesses disclosed by Respondent of persons she may call to testify at the hearing herein.

The IC reserves the right to amend and supplement this list as required for prosecution of this case.

II. LIST OF EXHIBITS

The IC of the Board lists the following exhibits that it may introduce at the hearing on the charges and formal Complaint against the Respondent. Additionally, the IC of the Board reserves the right to rely on all exhibits listed in Respondent's prehearing conference statement and any supplement and/or amendment thereof.

[1] Patient A's true identity is not disclosed herein to protect her privacy, but is disclosed in the Patient Designation filed and served alongside the formal Second Amended Complaint in this case.

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EXHIBIT NO.	DESCRIPTION	BATES RANGE (NSBME)
1	2019 Settlement Agreement Signed by Respondent	001-010
2	Nevada Secretary of State Information for Vida Spa, LLC	011-013
3	Clark County Business License Search Results for Vida Spa	014
4	March 19, 2021 Allegation Letter to Respondent with Request for Records	015-019
5	April 27, 2021 Second Request for Response	020
6	May 19, 2021 Respondent's Response via Attorney Lyn Beggs to Allegation Letter	021-027
7	January 5, 2021 Dr. Borromeo's Response to Allegation Letter	028
8	Black and White Photos of Vida Spa, LLC taken by Kim Friedman June 23, 2021	029-041
9	March 24, 2021 Nevada State Board of Pharmacy Cease and Desist Letter to Respondent	042-043
10	March 24, 2021 Nevada State Board of Pharmacy Cease and Desist Letter to Giselle Platfoot and Vida Spa, LLC	044-045
11	Sedation Log of Vida Spa, LLC retrieved from Vida Spa June 23, 2021	046-049
12	Daily Procedures January 1, 2019 to December 14, 2020	050-054
13	Medication Log Sheet of Vida Spa, LLC from May 20, 2021 to June 23, 2021	055-069
14	License Application Page of Maryanne Phillips	070
15	PATIENT B Medical Records	071-090
16	PATIENT C Medical Records	091-118
17	PATIENT D Medical Records	119-139
18	PATIENT E Medical Records	140-168
19	PATIENT F Medical Records	169-196

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20	PATIENT G Medical Records	197-199
21	PAITENT H Medical Records	200-226
22	PATIENT A Medical Records	227-267
23	PATIENT I Medical Records	268-300
24	PATIENT J Medical Records	301-332
25	PATIENT K Medical Records	333-363
26	PATIENT L Medical Records	364-398
27	PATIENT M Medical Records	399-434
28	PATIENT N Medical Records	435-470
29	PATIENT O Medical Records	471-499
30	PATIENT P Medical Records	500-532
31	PATIENT Q Medical Records	533-562
32	PATIENT R Medical Records	563-598
33	PATIENT S Medical Records	599-628
34	PATIENT T Medical Records	629-670
35	PATIENT U Medical Records	671-699
36	PATIENT V Medical Records	700-735
37	PATIENT W Medical Records	736-771
38	PATIENT X Medical Records	772-806
39	PATIENT Y Medical Records	807-844
40	PATIENT Z Medical Records	845-871

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41	PATIENT AA Medical Records	872-903
42	PATIENT BB Medical Records	904-932
43	PATIENT CC Medical Records	933-960
44	PATIENT DD Medical Records	961-996
45	PATIENT EE Medical Records	991A-1029
46	PATIENT FF Medical Records	1030-1059
47	PATIENT GG Medical Records	1060-1094
48	July 2, 2021 Nevada Department of Health and Human Services Cease Operation Order to Vida Spa, LLC	1095
49	July 2, 2021 Nevada Department of Health and Human Services Notice of Denial of Application to Gisselle Platfoot and Vida Spa, LLC	1096-1098
50	July 29, 2021 Clark County Department of Business Temporary Suspension of Business License	1099-1100
51	Color Photographs Taken June 23, 2021 by Kim Friedman	1101-1116
52	Color Photographs Taken October 27, 2020 by Kim Friedman	1117-1179
53	Direct Compounding Pharmacy Records	1180-1226
54	McKesson Pharmacy Records Spreadsheet	1227
54A	Email from McKesson Pharmacy to Investigator Kim Friedman	2330-2331
55	PATIENT HH Medical Records	1228-1259
56	PATIENT II Medical Records	1260-1292
57	PATIENT JJ Medical Records	1293-1323
58	PATIENT KK Medical Records	1324-1353
59	PATIENT LL Medical Records	1354-1380

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60	PATIENT MM Medical Records	1381-1411
61	PATIENT NN Medical Records	1412-1440
62	PATIENT OO Medical Records	1441-1475
63	PATIENT PP Medical Records	1476-1517
64	PATIENT QQ Medical Records	1518-1553
65	PATIENT RR Medical Records	1554-1582
66	PATIENT SS Medical Records	1583-1616
67	PATIENT TT Medical Records	1617-1646
68	PATIENT UU Medical Records June 8, 2021	1647-1657
69	PATIENT UU Medical Records May 5, 2021	1658-1683
70	PATIENT VV Medical Records	1684-1713
71	PATIENT WW Medical Records	1714-1743
72	PATIENT XX Medical Records	1744-1782
73	PATIENT YY Medical Records	1783-1807
74	PATIENT ZZ Medical Records	1808-1843
75	PATIENT AAA Medical Records	1844-1880
76	PATIENT BBB Medical Records	1881-1911
77	PATIENT CCC Medical Records	1912-1938
78	PATIENT DDD Medical Records	1939-1972
79	PATIENT EEE Medical Records	1973-2001
80	PATIENT FFF Medical Records	2002-2029

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81	PATIENT GGG Medical Records	2030-2056
82	PATIENT HHH Medical Records	2057-2084
83	PATIENT III Medical Records	2085-2114
84	PATIENT JJJ Medical Records	2115-2149
85	PATIENT KKK Medical Records	2150-2174
86	PATIENT LLL Medical Records	2175-2225
87	PATIENT MMM Medical Records	2226-2256
88	PATIENT NNN Medical Records	2257-2290
89	PATIENT OOO Medical Records	2291-2320
90	Subpoena for Records to Vida Spa, LLC and Affidavit of Service of Subpoena	2321-2329
91	Letter from Lyn Beggs, Esq. to Nevada State Board of Medical Examiners Regarding Withdrawal of Representation	2332
92	Facebook Video of Giselle Platfoot and Maryanne Phillips Promoting Liposuction Procedures	2333
93	Facebook Video of Maryanne Phillips Performing Chin Liposuction Procedure	2334
94	Facebook Video of Maryanne Phillips Assisting Clean Up of a Patient after Chin Liposuction Procedure	2335
95	Facebook Video of an Unknown Employee and Maryanne Phillips Promoting Liposuction With or Without Sedation	2336
96	Direct Compounding Subpoena for Records	2337-2341
97	McKesson Subpoena for Records	2342-2346
98	Transcript of Hearing on Order for Summary Suspension	2347-2512
99	Hearing Officer's Order After Hearing Continuing Suspension	2513-2519
100	2016 Settlement Agreement and Order	2520-2532

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101	Order Modifying Previously Approved Settlement Agreement 12/08/2017	2533-2547
102	PATIENT TTT Medical Records	2548-2568
103	First Amended Complaint Against Tammy Lynn Hankins, PA-C by the Investigative Committee of the Nevada State Board of Medical Examiners (Case No. 21-51633-1)	2569-2624
104	Findings of Fact, Conclusions of Law and Order in the Case Against Tammy Lynn Hankins, PA-C by the Investigative Committee of the Nevada State Board of Medical Examiners (Case No. 21-51633-1)	2625-2641
105	Complaint Against Salvador Garcia Borromeo, M.D. by the Investigative Committee of the Nevada State Board of Medical Examiners (Case No. 21-12423-1)	2642-2669
106	Settlement Agreement in Case Against Salvador Garcia Borromeo, M.D. by the Investigative Committee of the Nevada State Board of Medical Examiners (Case No. 21-12423-1)	2670-2678
107	**American Society of Anesthesiologist – Standards for Basic Anesthetic Monitoring Article**	**2679-2682**
108	**American Society of Anesthesiologist – Standards for Postanesthesia Article**	**2683-2684**

The IC reserves the right to use any exhibits relied upon or identified by Respondent and reserves the right to amend and supplement this list of exhibits as required.

DATED this 16th day of December, 2022.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

DONALD K. WHITE, J.D.
Senior Deputy General Counsel
9600 Gateway Drive
Reno, NV 89521
Email: dwhite@medboard.nv.gov
Attorney for the Investigative Committee

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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 16th day of December, 2022, I served a file-stamped copy of the foregoing **THIRD AMENDED PREHEARING CONFERENCE STATEMENT** via email as follows:

MARYANNE PHILLIPS, M.D.
c/o Leo Flangas, Esq.
email: leo@flangaslawfirm.com
Attorney for Respondent

CHARLES B. WOODMAN, ESQ.
Email: hardywoodmanlaw@msn.com
Hearing Officer

DATED this 16th day of December, 2022.

MEG BYRD
Legal Assistant
Nevada State Board of Medical Examiners

OFFICE OF THE GENERAL COUNSEL
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EXHIBIT 107

EXHIBIT 107

American Society of
Anesthesiologists

Standards for Basic Anesthetic Monitoring

Committee of Origin: Standards and Practice Parameters

(Approved by the ASA House of Delegates on October 21, 1986, last amended on October 20, 2010, and reaffirmed on December 13, 2020)

These standards apply to all anesthesia care although, in emergency circumstances, appropriate life support measures take precedence. These standards may be exceeded at any time based on the judgment of the responsible anesthesiologist. They are intended to encourage quality patient care, but observing them cannot guarantee any specific patient outcome. They are subject to revision from time to time, as warranted by the evolution of technology and practice. They apply to all general anesthetics, regional anesthetics and monitored anesthesia care. This set of standards addresses only the issue of basic anesthetic monitoring, which is one component of anesthesia care. In certain rare or unusual circumstances, 1) some of these methods of monitoring may be clinically impractical, and 2) appropriate use of the described monitoring methods may fail to detect untoward clinical developments. Brief interruptions of continual† monitoring may be unavoidable. These standards are not intended for application to the care of the obstetrical patient in labor or in the conduct of pain management.

1. STANDARD I

Qualified anesthesia personnel shall be present in the room throughout the conduct of all general anesthetics, regional anesthetics and monitored anesthesia care.

1.1 Objective –

Because of the rapid changes in patient status during anesthesia, qualified anesthesia personnel shall be continuously present to monitor the patient and provide anesthesia care. In the event there is a direct known hazard, e.g., radiation, to the anesthesia personnel which might require intermittent remote observation of the patient, some provision for monitoring the patient must be made. In the event that an emergency requires the temporary absence of the person primarily responsible for the anesthetic, the best judgment of the anesthesiologist will be exercised in comparing the emergency with the anesthetized patient's condition and in the selection of the person left responsible for the anesthetic during the temporary absence.

2. STANDARD II

During all anesthetics, the patient's oxygenation, ventilation, circulation and temperature shall be continually evaluated.

2.1 Oxygenation –

2.1.1 Objective –

To ensure adequate oxygen concentration in the inspired gas and the blood during all anesthetics.

NSBME 2679

2.1.2 Methods –

Inspired gas: During every administration of general anesthesia using an anesthesia machine, the concentration of oxygen in the patient breathing system shall be measured by an oxygen analyzer with a low oxygen concentration limit alarm in use.*

Blood oxygenation: During all anesthetics, a quantitative method of assessing oxygenation such as pulse oximetry shall be employed.* When the pulse oximeter is utilized, the variable pitch pulse tone and the low threshold alarm shall be audible to the anesthesiologist or the anesthesia care team personnel.* Adequate illumination and exposure of the patient are necessary to assess color.*

2.2 Ventilation -

2.2.1 Objective –

To ensure adequate ventilation of the patient during all anesthetics.

2.2.2 Methods –

Every patient receiving general anesthesia shall have the adequacy of ventilation continually evaluated. Qualitative clinical signs such as chest excursion, observation of the reservoir breathing bag and auscultation of breath sounds are useful. Continual monitoring for the presence of expired carbon dioxide shall be performed unless invalidated by the nature of the patient, procedure or equipment. Quantitative monitoring of the volume of expired gas is strongly encouraged.*

When an endotracheal tube or laryngeal mask is inserted, its correct positioning must be verified by clinical assessment and by identification of carbon dioxide in the expired gas. Continual end-tidal carbon dioxide analysis, in use from the time of endotracheal tube/laryngeal mask placement, until extubation/removal or initiating transfer to a postoperative care location, shall be performed using a quantitative method such as capnography, capnometry or mass spectroscopy.* When capnography or capnometry is utilized, the end tidal CO2 alarm shall be audible to the anesthesiologist or the anesthesia care team personnel.*

When ventilation is controlled by a mechanical ventilator, there shall be in continuous use a device that is capable of detecting disconnection of components of the breathing system. The device must give an audible signal when its alarm threshold is exceeded.

During regional anesthesia (with no sedation) or local anesthesia (with no sedation), the adequacy of ventilation shall be evaluated by continual observation of qualitative clinical signs. During moderate or deep sedation the adequacy of ventilation shall be evaluated by continual observation of qualitative clinical signs and monitoring for the presence of exhaled carbon dioxide unless precluded or invalidated by the nature of the patient, procedure, or equipment.

2.3 Circulation -

2.3.1 Objective –

To ensure the adequacy of the patient's circulatory function during all anesthetics.

2.3.2 Methods –

Every patient receiving anesthesia shall have the electrocardiogram continuously displayed from the beginning of anesthesia until preparing to leave the anesthetizing location.*

Every patient receiving anesthesia shall have arterial blood pressure and heart rate determined and evaluated at least every five minutes.*

Every patient receiving general anesthesia shall have, in addition to the above, circulatory function continually evaluated by at least one of the following: palpation of a pulse, auscultation of heart sounds, monitoring of a tracing of intra-arterial pressure, ultrasound peripheral pulse monitoring, or pulse plethysmography or oximetry.

2.4 Body Temperature

2.4.1 Objective –

To aid in the maintenance of appropriate body temperature during all anesthetics.

2.4.2 Methods –

Every patient receiving anesthesia shall have temperature monitored when clinically significant changes in body temperature are intended, anticipated or suspected.

† Note that "continual" is defined as "repeated regularly and frequently in steady rapid succession" whereas "continuous" means "prolonged without any interruption at any time."

* Under extenuating circumstances, the responsible anesthesiologist may waive the requirements marked with an asterisk (*); it is recommended that when this is done, it should be so stated (including the reasons) in a note in the patient's medical record.

American Society of
Anesthesiologists

Basic Standards for Preanesthesia Care

Committee of Origin: Standards and Practice Parameters

(Approved by the ASA House of Delegates on October 14, 1987, and last affirmed on December 13, 2020)

These standards apply to all patients who receive anesthesia care. Under exceptional circumstances, these standards may be modified. When this is the case, the circumstances shall be documented in the patient's record.

An anesthesiologist shall be responsible for determining the medical status of the patient and developing a plan of anesthesia care.

The anesthesiologist, before the delivery of anesthesia care, is responsible for:

1. Reviewing the available medical record.
2. Interviewing and performing a focused examination of the patient to:
   - 2.1 Discuss the medical history, including previous anesthetic experiences and medical therapy.
   - 2.2 Assess those aspects of the patient's physical condition that might affect decisions regarding perioperative risk and management.
3. Ordering and reviewing pertinent available tests and consultations as necessary for the delivery of anesthesia care.
4. Ordering appropriate preoperative medications.
5. Ensuring that consent has been obtained for the anesthesia care.
6. Documenting in the chart that the above has been performed.

NSBME 2682

EXHIBIT 108

EXHIBIT 108

American Society of
Anesthesiologists™

Standards for Postanesthesia Care

Committee of Origin: Standards and Practice Parameters

(Approved by the ASA House of Delegates on October 27, 2004, and last amended on October 23, 2019)

These standards apply to postanesthesia care in all locations. These standards may be exceeded based on the judgment of the responsible anesthesiologist. They are intended to encourage quality patient care, but cannot guarantee any specific patient outcome. They are subject to revision from time to time as warranted by the evolution of technology and practice.

STANDARD I

ALL PATIENTS WHO HAVE RECEIVED GENERAL ANESTHESIA, REGIONAL ANESTHESIA OR MONITORED ANESTHESIA CARE SHALL RECEIVE APPROPRIATE POSTANESTHESIA MANAGEMENT.

1. A Postanesthesia Care Unit (PACU) or an area which provides equivalent postanesthesia care (for example, a Surgical Intensive Care Unit) shall be available to receive patients after anesthesia care. All patients who receive anesthesia care shall be admitted to the PACU or its equivalent **except** by specific order of the anesthesiologist responsible for the patient's care.
2. The medical aspects of care in the PACU (or equivalent area) shall be governed by policies and procedures which have been reviewed and approved by the Department of Anesthesiology.
3. The design, equipment and staffing of the PACU shall meet requirements of the facility's accrediting and licensing bodies.

STANDARD II

A PATIENT TRANSPORTED TO THE PACU SHALL BE ACCOMPANIED BY A MEMBER OF THE ANESTHESIA CARE TEAM WHO IS KNOWLEDGEABLE ABOUT THE PATIENT'S CONDITION. THE PATIENT SHALL BE CONTINUALLY EVALUATED AND TREATED DURING TRANSPORT WITH MONITORING AND SUPPORT APPROPRIATE TO THE PATIENT'S CONDITION.

STANDARD III

UPON ARRIVAL IN THE PACU, THE PATIENT SHALL BE RE-EVALUATED AND A VERBAL REPORT PROVIDED TO THE RESPONSIBLE PACU NURSE BY THE MEMBER OF THE ANESTHESIA CARE TEAM WHO ACCOMPANIES THE PATIENT.

1. The patient's status on arrival in the PACU shall be documented.
2. Information concerning the preoperative condition and the surgical/anesthetic course shall be transmitted to the PACU nurse.

NSBME 2683

3. The member of the Anesthesia Care Team shall remain in the PACU until the PACU nurse accepts responsibility for the nursing care of the patient.

STANDARD IV

THE PATIENT'S CONDITION SHALL BE EVALUATED CONTINUALLY IN THE PACU.

1. The patient shall be observed and monitored by methods appropriate to the patient's medical condition. Particular attention should be given to monitoring oxygenation, ventilation, circulation, level of consciousness and temperature. During recovery from all anesthetics, a quantitative method of assessing oxygenation such as pulse oximetry shall be employed in the initial phase of recovery.* This is not intended for application during the recovery of the obstetrical patient in whom regional anesthesia was used for labor and vaginal delivery.
2. An accurate written report of the PACU period shall be maintained. Use of an appropriate PACU scoring system is encouraged for each patient on admission, at appropriate intervals prior to discharge and at the time of discharge.
3. General medical supervision and coordination of patient care in the PACU should be the responsibility of an anesthesiologist.
4. There shall be a policy to assure the availability in the facility of a physician capable of managing complications and providing cardiopulmonary resuscitation for patients in the PACU.

STANDARD V

A PHYSICIAN IS RESPONSIBLE FOR THE DISCHARGE OF THE PATIENT FROM THE POSTANESTHESIA CARE UNIT.

1. When discharge criteria are used, they must be approved by the Department of Anesthesiology and the medical staff. They may vary depending upon whether the patient is discharged to a hospital room, to the Intensive Care Unit, to a short stay unit or home.
2. In the absence of the physician responsible for the discharge, the PACU nurse shall determine that the patient meets the discharge criteria. The name of the physician accepting responsibility for discharge shall be noted on the record.

* Under extenuating circumstances, the responsible anesthesiologist may waive the requirements marked with an asterisk (*); it is recommended that when this is done, it should be so stated (including the reasons) in a note in the patient's medical record.

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **MARYANNE DEFOREST PHILLIPS, M.D.,** **Respondent.**	**Case No. 21-10032-1**

FILED
DEC 19 2022
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By: _____

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

FOURTH SUPPLEMENTAL PREHEARING CONFERENCE STATEMENT OF THE INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board) submits the following Fourth Supplemental Prehearing Conference Statement in accordance with NAC 630.465 and the Hearing Officer's Second Amended Scheduling Order, filed on October 14, 2022. (**New items are in bold font**)

I. LIST OF WITNESSES

The IC of the Board lists the following witnesses whom it may call at the hearing on the charges in the Complaint against Respondent filed herein:

a. Johnna LaRue, Deputy Chief of Investigations
Nevada State Board of Medical Examiners

Ms. LaRue is expected to verify documentary evidence obtained during the investigation of this case and testify regarding the investigation of this matter.

b. Maryanne Deforest Phillips, M.D.

Dr. Phillips is expected to testify regarding the facts and circumstances surrounding the formal Complaint in this case.

/ / /

/ / /

c. Patient A[1]

Patient A was a patient of Respondent in this case and she is expected to testify as to the facts and circumstances surrounding the formal Complaint in this matter.

d. Margaret Francis Byrd, Legal Assistant
Nevada State Board of Medical Examiners

Ms. Byrd is a Legal Assistant employed by the Nevada State Board of Medical Examiners and is expected to testify regarding facts and circumstances surrounding video evidence submitted as exhibits by the Investigative Committee.

e. Tiffany D. McCormack, M.D., F.A.C.S.

Dr. McCormack is a Board-Certified Plastic Surgeon and is licensed to practice medicine in the State of Nevada. Dr. McCormack has conducted a medical review of this case and is expected to testify regarding her medical review of this matter and the applicable standard of care.

f. Mark E. Janes, M.D.

Dr. Janes is a Board-Certified Anesthesiologist and is licensed to practice medicine in the State of Nevada. Dr. Janes has conducted a medical review of this case and is expected to testify regarding his medical review of this matter and the applicable standard of care.

g. All witnesses identified by Respondent in her prehearing conference statement and/or in any subsequent amended, revised or supplemental prehearing conference statement, or list of witnesses disclosed by Respondent of persons she may call to testify at the hearing herein.

The IC reserves the right to amend and supplement this list as required for prosecution of this case.

II. LIST OF EXHIBITS

The IC of the Board lists the following exhibits that it may introduce at the hearing on the charges and formal Complaint against the Respondent. Additionally, the IC of the Board reserves the right to rely on all exhibits listed in Respondent's prehearing conference statement and any supplement and/or amendment thereof.

[1] Patient A's true identity is not disclosed herein to protect her privacy, but is disclosed in the Patient Designation filed and served alongside the formal Second Amended Complaint in this case.

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EXHIBIT NO.	DESCRIPTION	BATES RANGE (NSBME)
1	2019 Settlement Agreement Signed by Respondent	001-010
2	Nevada Secretary of State Information for Vida Spa, LLC	011-013
3	Clark County Business License Search Results for Vida Spa	014
4	March 19, 2021 Allegation Letter to Respondent with Request for Records	015-019
5	April 27, 2021 Second Request for Response	020
6	May 19, 2021 Respondent's Response via Attorney Lyn Beggs to Allegation Letter	021-027
7	January 5, 2021 Dr. Borromeo's Response to Allegation Letter	028
8	Black and White Photos of Vida Spa, LLC taken by Kim Friedman June 23, 2021	029-041
9	March 24, 2021 Nevada State Board of Pharmacy Cease and Desist Letter to Respondent	042-043
10	March 24, 2021 Nevada State Board of Pharmacy Cease and Desist Letter to Giselle Platfoot and Vida Spa, LLC	044-045
11	Sedation Log of Vida Spa, LLC retrieved from Vida Spa June 23, 2021	046-049
12	Daily Procedures January 1, 2019 to December 14, 2020	050-054
13	Medication Log Sheet of Vida Spa, LLC from May 20, 2021 to June 23, 2021	055-069
14	License Application Page of Maryanne Phillips	070
15	PATIENT B Medical Records	071-090
16	PATIENT C Medical Records	091-118
17	PATIENT D Medical Records	119-139
18	PATIENT E Medical Records	140-168
19	PATIENT F Medical Records	169-196

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20	PATIENT G Medical Records	197-199
21	PAITENT H Medical Records	200-226
22	PATIENT A Medical Records	227-267
23	PATIENT I Medical Records	268-300
24	PATIENT J Medical Records	301-332
25	PATIENT K Medical Records	333-363
26	PATIENT L Medical Records	364-398
27	PATIENT M Medical Records	399-434
28	PATIENT N Medical Records	435-470
29	PATIENT O Medical Records	471-499
30	PATIENT P Medical Records	500-532
31	PATIENT Q Medical Records	533-562
32	PATIENT R Medical Records	563-598
33	PATIENT S Medical Records	599-628
34	PATIENT T Medical Records	629-670
35	PATIENT U Medical Records	671-699
36	PATIENT V Medical Records	700-735
37	PATIENT W Medical Records	736-771
38	PATIENT X Medical Records	772-806
39	PATIENT Y Medical Records	807-844
40	PATIENT Z Medical Records	845-871

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41	PATIENT AA Medical Records	872-903
42	PATIENT BB Medical Records	904-932
43	PATIENT CC Medical Records	933-960
44	PATIENT DD Medical Records	961-996
45	PATIENT EE Medical Records	991A-1029
46	PATIENT FF Medical Records	1030-1059
47	PATIENT GG Medical Records	1060-1094
48	July 2, 2021 Nevada Department of Health and Human Services Cease Operation Order to Vida Spa, LLC	1095
49	July 2, 2021 Nevada Department of Health and Human Services Notice of Denial of Application to Gisselle Platfoot and Vida Spa, LLC	1096-1098
50	July 29, 2021 Clark County Department of Business Temporary Suspension of Business License	1099-1100
51	Color Photographs Taken June 23, 2021 by Kim Friedman	1101-1116
52	Color Photographs Taken October 27, 2020 by Kim Friedman	1117-1179
53	Direct Compounding Pharmacy Records	1180-1226
54	McKesson Pharmacy Records Spreadsheet	1227
54A	Email from McKesson Pharmacy to Investigator Kim Friedman	2330-2331
55	PATIENT HH Medical Records	1228-1259
56	PATIENT II Medical Records	1260-1292
57	PATIENT JJ Medical Records	1293-1323
58	PATIENT KK Medical Records	1324-1353
59	PATIENT LL Medical Records	1354-1380

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60	PATIENT MM Medical Records	1381-1411
61	PATIENT NN Medical Records	1412-1440
62	PATIENT OO Medical Records	1441-1475
63	PATIENT PP Medical Records	1476-1517
64	PATIENT QQ Medical Records	1518-1553
65	PATIENT RR Medical Records	1554-1582
66	PATIENT SS Medical Records	1583-1616
67	PATIENT TT Medical Records	1617-1646
68	PATIENT UU Medical Records June 8, 2021	1647-1657
69	PATIENT UU Medical Records May 5, 2021	1658-1683
70	PATIENT VV Medical Records	1684-1713
71	PATIENT WW Medical Records	1714-1743
72	PATIENT XX Medical Records	1744-1782
73	PATIENT YY Medical Records	1783-1807
74	PATIENT ZZ Medical Records	1808-1843
75	PATIENT AAA Medical Records	1844-1880
76	PATIENT BBB Medical Records	1881-1911
77	PATIENT CCC Medical Records	1912-1938
78	PATIENT DDD Medical Records	1939-1972
79	PATIENT EEE Medical Records	1973-2001
80	PATIENT FFF Medical Records	2002-2029

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81	PATIENT GGG Medical Records	2030-2056
82	PATIENT HHH Medical Records	2057-2084
83	PATIENT III Medical Records	2085-2114
84	PATIENT JJJ Medical Records	2115-2149
85	PATIENT KKK Medical Records	2150-2174
86	PATIENT LLL Medical Records	2175-2225
87	PATIENT MMM Medical Records	2226-2256
88	PATIENT NNN Medical Records	2257-2290
89	PATIENT OOO Medical Records	2291-2320
90	Subpoena for Records to Vida Spa, LLC and Affidavit of Service of Subpoena	2321-2329
91	Letter from Lyn Beggs, Esq. to Nevada State Board of Medical Examiners Regarding Withdrawal of Representation	2332
92	Facebook Video of Giselle Platfoot and Maryanne Phillips Promoting Liposuction Procedures	2333
93	Facebook Video of Maryanne Phillips Performing Chin Liposuction Procedure	2334
94	Facebook Video of Maryanne Phillips Assisting Clean Up of a Patient after Chin Liposuction Procedure	2335
95	Facebook Video of an Unknown Employee and Maryanne Phillips Promoting Liposuction With or Without Sedation	2336
96	Direct Compounding Subpoena for Records	2337-2341
97	McKesson Subpoena for Records	2342-2346
98	Transcript of Hearing on Order for Summary Suspension	2347-2512
99	Hearing Officer's Order After Hearing Continuing Suspension	2513-2519
100	2016 Settlement Agreement and Order	2520-2532

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101	Order Modifying Previously Approved Settlement Agreement 12/08/2017	2533-2547
102	PATIENT TTT Medical Records	2548-2568
103	First Amended Complaint Against Tammy Lynn Hankins, PA-C by the Investigative Committee of the Nevada State Board of Medical Examiners (Case No. 21-51633-1)	2569-2624
104	Findings of Fact, Conclusions of Law and Order in the Case Against Tammy Lynn Hankins, PA-C by the Investigative Committee of the Nevada State Board of Medical Examiners (Case No. 21-51633-1)	2625-2641
105	Complaint Against Salvador Garcia Borromeo, M.D. by the Investigative Committee of the Nevada State Board of Medical Examiners (Case No. 21-12423-1)	2642-2669
106	Settlement Agreement in Case Against Salvador Garcia Borromeo, M.D. by the Investigative Committee of the Nevada State Board of Medical Examiners (Case No. 21-12423-1)	2670-2678
107	American Society of Anesthesiologist – Standards for Basic Anesthetic Monitoring Article	2679-2682
108	American Society of Anesthesiologist – Standards for Postanesthesia Article	2683-2684
109	**Curriculum Vitae of Mark Janes, M.D.**	**2685-2687**

The IC reserves the right to use any exhibits relied upon or identified by Respondent and reserves the right to amend and supplement this list of exhibits as required.

DATED this 19th day of December, 2022.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

DONALD K. WHITE, J.D.
Senior Deputy General Counsel
9600 Gateway Drive
Reno, NV 89521
Email: dwhite@medboard.nv.gov
Attorney for the Investigative Committee

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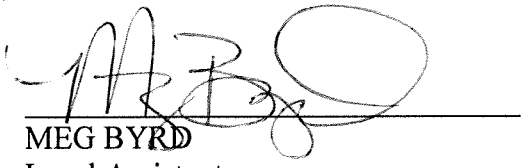
CERTIFICATE OF SERVICE

I hereby certify that I am employed by the Nevada State Board of Medical Examiners and that on the 19th day of December, 2022, I served a file-stamped copy of the foregoing **FOURTH AMENDED PREHEARING CONFERENCE STATEMENT**, via hand delivery to the following party:

MARYANNE PHILLIPS, M.D.
c/o Leo Flangas, Esq.
Attorney for Respondent

CHARLES B. WOODMAN, ESQ.
Hearing Officer

DATED this 19th day of December, 2022.



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Legal Assistant
Nevada State Board of Medical Examiners

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EXHIBIT 109

EXHIBIT 109

NRS 639.100

Curriculum Vitae

Mark Elliott Janes
405 Blue Spruce Rd
Reno, NV 89511
Email: markelliottjanes@hotmail.com
Cell: 775-412-1888

Board Certification:
American Board of Anesthesiology

Employment:

Anesthesiologist, Associated Anesthesiologists of Reno
2013 to present

Anesthesiologist, Northern Nevada Anesthesia Associates
2002 to 2013

Assistant Professor, Department of Anesthesiology
Cardiothoracic Anesthesia Division
University of Colorado Health Sciences Center
2001 to 2002

Post Graduate Education:
Chief Resident, Department of Anesthesiology
University of Colorado Health Sciences Center
June 2000 to June 2001

Resident, Department of Anesthesiology
University of Colorado Health Sciences Center
March 1998 to March 2001

Research Fellow
Leiden University, Leiden, the Netherlands
July 1996 to March 1998

Intern, Department of Internal Medicine
University of Utah
July 1995 to July 1996

Education:
M.D.
Vanderbilt University

1995

B.S., psychology
University of Iowa
1991

Awards:
Chief Resident Award
University of Colorado Health Sciences Center
2000

Outstanding Academic Achievement Award
University of Colorado Health Sciences Center
1998, 1999, 2000

Microbes and Defense Society
Vanderbilt University
1992

Graduated with Honors and High Distinction
University of Iowa
1991

Collegiate Scholar
University of Iowa
1991

Phi Beta Kappa
University of Iowa
1990

National Science Foundation Fellowship
University of Virginia
1990

Psi Chi
University of Iowa
1989

Dean's List
University of Iowa
1988, 1990, 1991

President's List
University of Iowa
1988

Professional Responsibilities:
Director of Safety
Associated Anesthesiologists of Reno

Director of Cardiothoracic Anesthesia
Northern Nevada Anesthesia Associates

Nevada Medical Board Reviewer

References:
Available on request

Mark James M.D.

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **MARYANNE DEFOREST PHILLIPS, M.D.,** **Respondent.**	**Case No. 21-10032-1** FILED JAN 13 2023 NEVADA STATE BOARD OF MEDICAL EXAMINERS By:

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
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Reno, Nevada 89521
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THE INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS' BRIEF REGARDING DISCLOSURE OF A CURRICULUM VITAE

The Investigative Committee (IC)[1] of the Nevada State Board of Medical Examiners (Board) by and through Donald K. White, J.D., Senior Deputy General Counsel and attorney for the IC, hereby issues its Brief Regarding the Disclosure of a Curriculum Vitae ("Brief").

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

The following brief is pursuant to a verbal Order from Charlie Woodman, Hearing Officer entered during the formal hearing on this case. The IC, through its attorney, Donald K. White, unintentionally disclosed the curriculum vitaes (CVs) of its two experts the morning of the first day of the hearing, December 19, 2022 instead of disclosing them on or before the day of the Prehearing Conference on July 13, 2022, or on a later date for which disclosure was extended to November 18, 2022, as contained in the Second Amended Scheduling Order dated October 13, 2022 and filed on October 14, 2022.

II. APPLICABLE LAW AND ARGUMENT

NAC 630.465 is the one and only regulation that references the Prehearing Conference, which, in-turn, provides the time requirements for disclosing evidence to be introduced and

[1] The Investigative Committee of the Nevada State Board of Medical Examiners at the time the Summary Suspension in this matter was authorized, consisted of Board members Victor M. Muro, M.D., Chairman, Weldon Havins, M.D., J.D., and Ms. Maggie Arias-Petrel.

possibly admitted at the hearing and witnesses who will testify at the hearing.

NAC 630.465 states in totality:

NAC 630.465 Hearings: Prehearing conference. (NRS 630.130, 630.275)

1. At least 30 days before a hearing but not earlier than 30 days after the date of service upon the physician or physician assistant of a formal complaint that has been filed with the Board pursuant to NRS 630.311, unless a different time is agreed to by the parties, the presiding member of the Board or panel of members of the Board or the hearing officer shall conduct a prehearing conference with the parties and their attorneys. All documents presented at the prehearing conference are not evidence, are not part of the record and may not be filed with the Board.

2. **Each party shall provide to every other party a copy of the list of proposed witnesses and their qualifications and a summary of the testimony of each proposed witness.** A witness whose name does not appear on the list of proposed witnesses may not testify at the hearing unless good cause is shown.

3. **All evidence, except rebuttal evidence, which is not provided to each party at the prehearing conference may not be introduced or admitted at the hearing unless good cause is shown.**

4. Each party shall submit to the presiding member of the Board or panel or to the hearing officer conducting the conference each issue which has been resolved by negotiation or stipulation and an estimate, to the nearest hour, of the time required for presentation of its oral argument. (Emphasis added).

Dr. Tiffany McCormack and Dr. Mark Janes were indeed disclosed on the IC's original Prehearing Conference Statement dated June 28, 2022 and all Amended Prehearing Conference Statements thereto.

Clearly, a CV of a potential expert witness is not required to be disclosed pursuant to NAC 630.465, but the IC often discloses them as a courtesy to Respondent and opposing counsel. This argument in no way should be contemplated as a waiver to future nondisclosure of CVs, should the IC decide in future matters to not disclose an expert's CV. What is also clear from NAC 630.465, is that whether the CVs for Dr. McCormack and Dr. Janes are admitted does not effect their ability to testify and to have that testimony as part of the record. Respondent never requested the CVs of the Dr. McCormack or Dr. Janes during the pendency of this matter. Respondent, however, did subpoena the IC's experts in order to take their depositions in an unrelated matter currently before the 8th Judicial District Court in Las Vegas, Nevada. Upon the late disclosure of the CVs of the IC's experts, Respondent did not ask for the common remedy of a continuance, which could have been orally argued. As the IC does not have a good cause argument for the late disclosure of the CVs of Dr. McCormack and Dr. Janes, the IC will defer to the ruling of the

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Hearing Officer, Mr. Woodman. The IC undeniably argues that the testimony of Dr. McCormack and Dr. Janes should remain as part of the record of this matter, as Respondent had the opportunity to and did in fact cross-examine both of the IC's expert witnesses and had the opportunity to impeach their credibility.

III. CONCLUSION

The testimony of Dr. McCormack and Dr. Janes should remain part of the record and the IC will defer to Hearing Officer Woodman to determine if the CVs of Dr. McCormack and Dr. Janes should be admitted, as the IC does not have a good cause argument other than an inadvertent mistake in timely disclosing the CVs.

DATED this 13th day of January, 2023.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

DONALD K. WHITE, J.D.
Senior Deputy General Counsel
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Reno, NV 89521
Tel: (775) 688-2559
Email: dwhite@medboard.nv.gov
Attorney for the Investigative Committee

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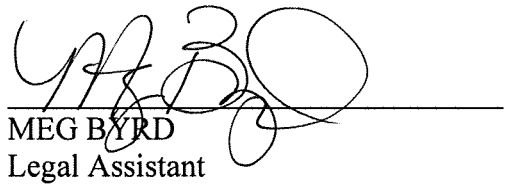
CERTIFICATE OF SERVICE

I hereby certify that I am employed by the Nevada State Board of Medical Examiners and that on the 13th day of January, 2023, I served a file-stamped copy of the foregoing **THE INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS' BRIEF REGARDING DISCLOSURE OF A CURRICULUM VITAE**, via email to the following parties:

Leo Flangas, Esq., at [leo@flangaslawfirm.com]
Donald K. White, Esq. at [dwhite@medboard.nv.gov]
Charles B. Woodman, Esq. at [hardywoodmanlaw@msn.com]

DATED this 13th day of January, 2023.



MEG BYRD
Legal Assistant
Nevada State Board of Medical Examiners

FILED

JAN 17 2023

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: [signature]

LEO P FLANGAS, ESQ.
Nevada Bar No. 5637
FLANGAS LAW FIRM, LTD.
600 S. Third Street
Las Vegas, Nevada 89101
Telephone: (702) 384-1990
Facsimile: (702) 384-1009
E-mail: leo@flangaslawfirm.com
Attorney for Respondent

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

In the Matter of Charges and Complaint Against: **MARYANNE DEFOREST PHILLIPS, M.D., License No. 7635.**	CASE NO.: 21-10032-1

BRIEF REQUESTING TO STRIKE THE MEDICAL BOARD'S TRIAL EXPERTS

COMES NOW, Dr. Maryanne Deforest Phillips, M.D., by and through her attorney of record Leo P. Flangas, Esq. of Flangas Civil Law Firm.

1. NRS Chapter 630 governs hearings before the medical board. Pertinent for this brief is NRS 630.346(1), which states "The Board, a panel of members of the Board and a hearing officer are not bound by formal rules of evidence, except that evidence must be taken and considered in the hearing pursuant to NRS 233B.123."

2. NAC 630.465(2) states

> Each party shall provide to every other party a copy of the list of proposed witnesses ***and their qualifications*** and a summary of the testimony of each proposed witness. A witness whose name does not appear on the list of proposed witnesses may not testify at the hearing unless good cause is shown. *(Emphasis added).*

3. NRS 233B.123(1) states, in pertinent part "Objections to evidentiary offers may be made and must be noted in the record." Here, Dr. Phillips objected to the State's proffer of expert testimony because the State failed to disclose the qualifications of the State's purported experts at any time before the hearing on this matter and did not provide a proper summary of testimony at any time.

4. NRCP 16.1(2)(c)
(C) Witnesses Who Do Not Provide a Written Report. Unless otherwise stipulated or ordered by the court, if the witness is not required to provide a written report, this disclosure must state:
(i) the subject matter on which the witness is expected to present evidence under NRS 50.275, 50.285, and 50.305;
(ii) a summary of the facts and opinions to which the witness is expected to testify;
(iii) the qualifications of that witness to present evidence under NRS 50.275, 50.285, and 50.305, which may be satisfied by the production of a resume or curriculum vitae; and
(iv) the compensation of the witness for providing testimony at deposition and trial, which is satisfied by production of a fee schedule.

5. The basis of the civil procedural rules to mandate the timely disclosure of the (1) CV, (2) all cases that the expert testified either at hearing, trial or in depo and their expertise and (3) all publications by the expert is to give the other side notice of the background of the expert, the expert's previous opinions and the credentials of the expert. Expert testimony is very powerful testimony because the expert is delivering special knowledge and assisting the trier of fact (hearing master) by testifying and making conclusions based on facts that are supposed to be not common knowledge. This is why we have someone with special knowledge to testify to these facts. This is the very same reason why the NRCP rules mandate that notice of the CV, previous cases and publications and amount paid be disclosed to the other side, in order to give ample opportunity for the other side to fully investigate and understand the history and credentials of the expert, because this is a person with specialized knowledge that is able to opine on facts that a lay witness is not able to do. The State was required to provide the proposed witnesses' qualification pursuant to NAC 630.465(2). This rule specifically states for both parties to provide the qualifications to the other side and this rule is based on the same rationale as NRCP 16. The State failed to provide any qualifications to Respondent.

6. In the instant matter, the State did not give any *timely notice* of the qualifications/requirements mandated by NAC 630.465(2). Ultimately, this comes down to notice and fairness. It is truly

unfair for the State to present experts to testify as to specialized information and not fully disclose their qualifications as mandated in NAC 630.465(2) nor outlined in NRS 16.

7. "Although the absence of prejudice is a relevant factor, we emphasize that the absence of prejudice alone is never sufficient to constitute good cause to excuse the late filing of a notice..." *Nunnery v. State*, 263 P.3d 235, 246-47 (Nev. 2011). Admittedly *Nunnery* dealt with notice pursuant to SCR 250(4)(f), but Respondent contends that the principle is the same. There is no reason for the State's omission, and the testimony of Doctors McCormack and Janes must therefore be barred from this proceeding.

8. The State's failure further prohibited Respondent from being able to accurately assess the accuracy and efficacy of the State's proposed Experts and to adequately prepare and present one or more rebuttal experts. This amounts to "trial by ambush" and is inherently unfair to Respondent.[1]

CONCLUSION

Because the State has no good reason for its failure to disclose pertinent information relating to its intended experts, and because of the unfair surprise and prejudice to Respondent, this forum must exclude testimony by the State's Experts in this matter.

Dated this 13th day of January 2023.

/s/ Leo P. Flangas
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600 S. Third Street
Las Vegas, Nevada 89101
Attorney for Respondent

[1] Trial by ambush traditionally occurs where a party withholds discoverable information and then later presents this information at trial, effectively ambushing the opposing party through gaining an advantage by the surprise attack. *Land Baron Invs., Inc. v. Bonnie Springs Family Ltd. P'ship*, 356 P.3d 511, 522 n.14 (Nev. 2015), internal citations omitted.

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of January, 2023, service of the foregoing document was made by submission via email and USPS Certified Mail to the following parties:

NEVADA STATE BOARD OF MEDICAL EXAMINERS
Attn: Don White
325 E. Warm Springs Road, Suite 225
Las Vegas, NV 89119
Email: dwhite@medboard.nv.gov

And to

hardywoodmanlaw@msn.com

Dated this 13th day of January 2023.

/s/ Ami Rebecca Meyers
An employee of Flangas Civil Law Firm

BEFORE THE BOARD OF MEDICAL EXAMINERS

OF THE STATE OF NEVADA

In the Matter of Charges and Complaint Against MARYANN D. PHILLIPS, M.D., Respondent.	**CASE NO.: 21-10032-1**

FILED

APR 28 2023

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

HEARING OFFICER'S DECISION AND RECOMMENDATION ON ADMISSIBILITY OF EXPERT WITNESSES CALLED BY THE THE INVESTIGATIVE COMMITTEE OF THE BOARD

Following the formal hearing of this matter, counsel was invited to submit briefing on Respondent's objection to the admission of testimonial evidence of two expert witnesses called by the Investigative Committee ("IC") of the Board. The basis of the objection was that, while the IC did include in its Pre-Hearing Conference Statement the names of the expert witnesses it intended to call to testify at the hearing along with a brief statement of the qualifications of those witnesses and a brief summary of the subject matter on which the witnesses would testify, (and it is not contested that the Statement was timely served), the IC did not include a CV for those expert witnesses nor did it include any expert witness report(s).

The controlling authority for this issue is found in the Nevada Administrative Code, Section 630.465, which states in pertinent part that:

> 1. At least 30 days before a hearing but not earlier than 30 days after the date of service upon the physician or physician assistant of a formal complaint that has been filed with the Board pursuant to NRS 630.311, unless a different time is agreed to by the parties, the presiding member of the Board or panel of members of the Board or the hearing officer shall conduct a prehearing conference with the parties and their attorneys. All documents presented at the prehearing conference are not evidence, are not part of the record and may not be filed with the Board.
>
> 2. *Each party shall provide to every other party a copy of the list of proposed witnesses and their qualifications and a summary of the testimony of each proposed witness.* **A witness whose name does not appear on the list of proposed witnesses may not testify at the hearing unless good cause is shown.**

///

As stated above, the IC's Pre-Hearing Conference Statement did contain the names of the expert witnesses it intended to call to testify at the hearing, and further contained a brief statement of the qualifications of those witnesses and a short summary of the subject matter on which the witnesses would testify. The controlling code provision does not require a CV or expert witness report. Further, as the IC did meet the standard of including the names of it witnesses along with their qualifications and a summary of their testimony, there is no basis to disqualify the witnesses.

Accordingly, the motion to disqualify the witnesses must be denied. The testimonial evidence of the IC's expert witnesses is thus admitted.

DATED this 27th day of April, 2023.

CHARLES B. WOODMAN, ESQ.
Hearing Officer
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Reno, Nevada 89509
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hardywoodmanlaw@msn.com

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 document addressed as follows:

DONALD WHITE, Deputy General Counsel and Attorney for the Investigative Committee of the Nevada State Board of Medical Examiners, 9600 GATEWAY DRIVE, RENO, NV 89521

LEO P. FLANGAS, ESQ. of FLANGAS LAW FIRM, LTD., 600 SOUTH THIRD STREET, LAS VEGAS, NV 89101 9171 9690 0935 0254 7678 31

DATED this 18 day of May, 2023.

Legal Assistant
Nevada State Board of Medical Examiners