Nevada State Board of Medical Examiners

CONSIDERATION OF SUPPLEMENTAL FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. SASSAN KAVEH, M.D., CASE NO. 23-10414-1

Board Meeting Date: June 5, 2026

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BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **SASSAN KAVEH, M.D.,** **Respondent.**	**Case No. 23-10414-1**

SUPPLEMENTAL FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

This matter comes before the Nevada State Board of Medical Examiners (Board) on a remand from the Clark County District Court, in the matter of *Sassan Kaveh, M.D., v. Nevada State Board of Medical Examiners*, Case No. A-25-912226-J. On February 15, 2026, the Court filed an Order Granting In-Part and Denying In-Part Petitioner Sassan Kaveh, M.D.'s Petition for Judicial Review (Order). Per this Order, the Court affirmed the Board's determination that Sassan Kaveh, M.D., (Kaveh) violated NRS 630.306(1)(b)(3), finding that such determination was supported by substantial evidence in the administrative record.

The Court remanded this matter for a limited supplemental proceeding based upon the existing administrative record solely to address the affirmative defenses presented in Kaveh's Pre-Hearing Motion to Dismiss, and to issue a supplemental final order containing analysis of those defenses.

The Board acknowledges Kaveh's contention that he was limited in presenting his affirmative defenses during the evidentiary hearing. However, the Board finds that the affirmative defenses at issue do not turn on disputed issues of fact requiring additional testimony, but instead on legal conclusions drawn from the established administrative record. The record includes sufficient evidence regarding the composition and actions of the Investigative Committee (IC) and the procedural history of this matter to permit full and fair consideration of these defenses.

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Consistent with the Court's Order, the Board has not considered any new evidence and has relied exclusively on the existing administrative record (ROA). Further, the scope of this proceeding is limited to the affirmative defenses raised in Kaveh's Pre-Hearing Motion to Dismiss. All prior Findings of Fact and Conclusions of Law are hereby incorporated and remain in full force and effect.

The Board's Findings of Fact are based exclusively on the existing administrative record. The Board's Conclusions of Law are derived from and applied to those facts. To the extent any finding may be characterized as a conclusion of law, it shall be deemed a conclusion of law, and vice versa, as necessary to effectuate the intent of this Order.

The Board, after due consideration of the record, evidence and law, and being fully advised in the premises, makes its SUPPLEMENTAL FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER in this matter, as follows:

I. RELEVANT FACTUAL AND PROCEDURAL HISTORY

Kaveh held a license to practice medicine in the State of Nevada issued by the Board on July 18, 1997.

On May 8, 2023, the IC filed a formal Complaint in Case No. 23-10414-1, alleging one (1) violation of the Medical Practice Act that constitutes grounds for initiating disciplinary action against a licensee, as follows: one (1) count of NRS 630.306(1)(b)(3), Violation of Statutes and Regulations of the Nevada State Board of Pharmacy. Kaveh filed an Answer to the allegations set forth in the Complaint on June 22, 2023.

On September 6, 2023, Kaveh filed a Pre-Hearing Motion to Dismiss (Motion to Dismiss). ROA at 024–105. The IC then filed an Opposition to the Motion to Dismiss. ROA at 123–136. Kaveh then filed a Reply in Support of his Motion to Dismiss. ROA at 137–198. The Hearing Officer, Nancy Moss Ghusn, Esq., then filed, on October 13, 2023, an Order Denying Respondent's Motion to Dismiss. ROA at 227–230. In the Order, Hearing Officer Ghusn stated that she agreed "with the arguments and analysis set forth in the IC's Opposition to Respondent's Motion to Dismiss . . . As such, I find it appropriate to deny Respondent's Motion to Dismiss." ROA at 228.

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Additionally, on September 19, 2023, the IC filed a Motion in Limine to Exclude Certain Witnesses Listed in Respondent's Prehearing Conference Statement (Motion in Limine). ROA at 114–122. This motion was filed in response to Kaveh's Prehearing Conference Statement. ROA at 106–111. Hearing Officer Ghusn granted the Motion in Limine. ROA at 231–234.

This matter proceeded to a formal evidentiary hearing on June 13, 2024. At that time, a new hearing officer, Patricia Halstead, Esq., had been appointed to preside over the matter. At the beginning of the hearing, Hearing Officer Halstead noted that "this matter came to [her] already partially adjudicated through motion work from a previous hearing officer" and that Hearing Officer "reviewed the entirety of the file." ROA at 266. Hearing Officer Halstead further stated that she was not anticipating that the parties were going to "rehash matters that have already been ruled upon," and instead that the parties would "address the merits of the complaint." *Id*.

Hearing Officer Halstead received the complete record of proceedings, including the transcript of the testimony received and the exhibits admitted. Hearing Officer Halstead issued her Findings and Recommendations, which were filed September 27, 2024. This matter was scheduled for final adjudication on December 13, 2024, at a regularly scheduled Board meeting.

The Board then adopted the Findings and Recommendations of the Hearing Officer which found that Kaveh had violated NRS Chapter 630 and issued its Findings of Fact, Conclusions of Law, and Order on December 26, 2024. On February 10, 2025, Kaveh filed a Petition for Judicial Review in Clark County District Court, Case No. A-25-912226-J.

II. THE COMPOSITION OF THE INVESTIGATIVE COMMITTEE

Kaveh asserted that the Complaint was improperly authorized because the IC was not properly composed in violation of the requirements of NRS 630.11(1). ROA at 027–028, 037–038. NRS 630.311(1) requires that "a committee designated by the Board and consisting of members of the Board shall review each complaint and conduct an investigation to determine if there is a reasonable basis for the complaint. The committee must be composed of at least three members of the Board, at least one of whom is not a physician."

Kaveh asserted, in his Motion to Dismiss, that the Complaint must be dismissed because the Complaint footnote initially stated that the IC, at the time the formal Complaint was

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authorized for filing, was only composed of two (2) individuals, Bret W. Frey, M.D. and Col. Eric Wade, USAF (Ret.). Additionally, during the formal evidentiary hearing, Chief of Investigations, Ernesto Diaz testified that two (2) members of the IC, Dr. Frey and Col. Wade, were present at the meeting where it was decided that a formal complaint should be filed against Kaveh. ROA at 304–305, 345.

The administrative record reflects that, at all relevant times, the IC assigned to this matter consisted of three (3) appointed members: Bret W. Frey, M.D., Col. Eric Wade, USAF (Ret.), and Chowdhury H. Ahsan, M.D. ROA at 093; ROA at 345–346.

The record further reflects that two (2) members of the IC were present at the meeting at which the matter was reviewed and authorization was given to file the Complaint, and that one member was unable to attend. ROA at 345–346.

Nothing in NRS 630.311(1) requires the physical presence or participation of all members of the IC to constitute a valid act of the IC. Under NRS 630.100(3), "[a] majority of the Board or of any committee or panel appointed by the Board constitutes a quorum. If there is a quorum, a vote of the majority of the members present is all that is necessary to transact any business before the Board or the committee or panel appointed by the Board." Accordingly, because a quorum of the duly constituted Committee was present, the IC was authorized to transact any business before it.

Based upon the existing administrative record, the Board concludes that the IC was duly constituted under NRS 630.311 and that a quorum was present when authorization was given to file the Complaint.

The Board further finds that the Errata filed regarding the description of the IC's composition (ROA at 012) corrected a clerical description in the Complaint and did not alter the underlying composition of the IC reflected elsewhere in the administrative record.

Upon review of the record, including Hearing Officer Ghusn's Order Denying Respondent's Motion to Dismiss, in which she agreed with the arguments and analysis set forth in the IC's Opposition to Respondent's Motion (ROA at 227–230), the Board concludes that the IC was properly constituted, acted within its statutory authority, and validly authorized the filing of

the Complaint. This conclusion is supported by, but not limited to, ROA at 093, 345-346, and 012. Kaveh's affirmative defense regarding IC composition therefore fails as a matter of law.

III. LACHES

Kaveh asserted that the IC's Complaint is barred by the doctrine of laches due to delay in investigation and prosecution. ROA at 038–041, 150–151.

The Board finds that Kaveh did not establish the essential elements of laches. Laches is an equitable doctrine requiring not only delay but delay that results in prejudice to the opposing party. *Carson City v. Price,* 113 Nev. 409, 412, 934 P.2d 1042, 1043 (1997) ("[L]aches is more than a mere delay in seeking to enforce one's rights; it is a delay that works to the disadvantage of another."); *Memory Gardens of Las Vegas v. Pet Ponderosa Memorial Gardens,* 88 Nev. 1, 5, 492 P.2d 123, 125 (1972) ("[A] delay not causing actual prejudice does not amount to laches. The alleged prejudice cannot be prospective or illusory."); *State v. Rosenthal,* 107 Nev. 772, 777–78, 819 P.2d 1296, 1300–01 (1991). "The condition of the party asserting laches must become so changed that the party cannot be restored to its former state." *Home Savings v. Bigelow,* 105 Nev. 494, 496, 779 P.2d 85, 86 (1989).

The administrative record reflects that the Board received information regarding the underlying disciplinary matter involving the Nevada State Board of Pharmacy and thereafter conducted an investigation prior to initiation of formal disciplinary proceedings. The Board finds that Kaveh has not identified evidence in the administrative record demonstrating that the timing of the investigation or filing of the Complaint impaired Kaveh's ability to defend against the allegations in this matter.

Kaveh has not demonstrated specific, material prejudice resulting from any alleged delay, such as loss of evidence, unavailability of witnesses, or impairment of the ability to mount a defense.

The Board further notes that the timing between the Board's receipt of notice of the underlying Pharmacy Board disciplinary action and the initiation of formal disciplinary proceedings reflects the Board's investigative and review process. Nothing in the record

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demonstrates that this timeline was unreasonable under the circumstances or that it resulted in any prejudice to Kaveh.

Upon review of the record, including Hearing Officer Ghusn's Order Denying Respondent's Motion to Dismiss, in which she agreed with the arguments and analysis set forth in the IC's Opposition to Respondent's Motion, ROA at 227–230, the Board concludes that Kaveh has failed to establish the elements of laches, and this affirmative defense is without merit. Nothing in the ROA demonstrates contrary evidence supporting the asserted prejudice or delay sufficient to establish laches. Accordingly, the doctrine of laches does not bar this administrative enforcement action.

IV. DIFFERENTIAL TREATMENT

Kaveh asserted that he was treated differently than other licensees, and that other licensees did not receive complaints citing only NRS 630.306(1)(b)(3) as the sole basis for discipline. ROA at 034–037, 145–146. Although not explicitly stated as such in the record, Kaveh appeared to make a claim of selective prosecution. Under Nevada law, a defendant bears a heavy burden to establish at least a prima facie claim of selective or discriminatory prosecution whereby he "must show that a public officer enforced a law or policy in a manner that had a discriminatory effect, and that such enforcement was motivated by a discriminatory purpose." *Salaiscooper v. Eighth Jud. Dist. Ct. ex rel. County of Clark*, 117 Nev. 892, 903, 34 P.3d 509, 517 (2001). To prove discriminatory effect, a defendant must show that others similarly situated have not been prosecuted for the same conduct forming the basis of the charge against him. *Id*. To show a discriminatory purpose, the defendant must show "that a public administrator chose a particular course of action, at least in part, because of its adverse effects upon a particular group." *Id*.

Further, "the mere showing of selective enforcement of a statute, without more, is not constitutionally impermissible." *Williams v. State*, 393 So. 2d 492, 494 (Ala. Crim. App. 1981) (*citing Oyler v. Boles*, 368 U.S. 448 (1962) for the proposition that the conscious exercise of some selectivity in enforcement is not in itself a constitutional violation; and, even though statistics might imply a policy of selective enforcement, it remains that the selection must be deliberately based upon an unjustifiable standard such as race, religion, or other arbitrary classification).

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The administrative record contains no evidence that similarly situated licensees who engaged in comparable conduct were treated differently, or that the Board's decision to proceed with disciplinary action was based on an unjustifiable standard or arbitrary classification, or any other improper motive or discriminatory intent. The record reflects that the Board initiated and pursued this matter based upon its statutory authority and the evidence before it.

Upon review of the record, including Hearing Officer Ghusn's Order Denying Respondent's Motion to Dismiss, in which she agreed with the arguments and analysis set forth in the IC's Opposition to Respondent's Motion, ROA at 227–230, the Board concludes that Kaveh has failed to establish the elements of selective prosecution, and this affirmative defense is without merit. This conclusion is supported by the entirety of the administrative record, which contains no sufficiently similar comparison case or intent evidence

V. STATUTORY AUTHORITY TO INVESTIGATE AND FILE THE COMPLAINT

The record also shows that Kaveh raised an additional argument that the Board, and its IC, lacked authority to initiate the investigation of Kaveh absent a "public complaint." The Board finds that this argument was not raised in Kaveh's initial Pre-Hearing Motion to Dismiss but instead was asserted elsewhere in a reply (ROA at 147–150), and in Kaveh's Opposition to the IC's Motion in Limine (ROA at 209–211).

To the extent this argument was raised or incorporated into Kaveh's Motion to Dismiss, the Board addresses it as follows. There is no statutory definition for the term "complaint" in NRS Chapter 630. Nothing in this chapter limits the Board's investigative authority to matters initiated by a "public complaint." All potential violations of NRS Chapter 630 are investigated whether they come by written complaint, information, report, self-report, or any other means because the Board is the official agency that receives formal accusations and is charged with its enforcement. *See* NRS 630.130(1)(a). Here, the administrative record reflects that Board investigations initially received a copy of Kaveh's disciplinary action from the Board of Pharmacy's general counsel on October 15, 2021. ROA at 284. The record also shows that Kaveh self-reported the Board of Pharmacy disciplinary action to the Board in November 2021.

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Id. The Board finds that this information from the Board of Pharmacy and later from Kaveh himself formed the basis for the investigation and subsequent filing of the Complaint.

Next, the Nevada Legislature has declared that for the protection and benefit of the public, the Board is delegated the power and authority to ensure the continued competency of physicians. *See* NRS 630.003(1)(a); NRS 630.003(1)(b). *See also* NRS 622.080. The Board must exercise its regulatory power to ensure that the interests of licensees do not outweigh the interests of the public. *See* NRS 630.003(1)(c). Additionally, the provisions of NRS Chapter 630 must be applied liberally to carry out its public protection purpose. *See* NRS 630.003(2); *see also Colello v. Adm'r, Nev. Real Estate Div.*, 100 Nev. 344, 347, 683 P.2d 15, 16 (1984) ("Where the purpose of the legislation is expressly stated, that purpose is a factor to be considered in interpreting a given statute."); *McLaughlin v. Housing Auth. of Las Vegas*, 68 Nev. 84, 93, 227 P.2d 206, 210 (1951) (stating that "the question of whether the act is for a public purpose is primarily one for the legislature" and "the declaration of policy by the legislature, though not necessarily binding or conclusive upon the courts, is entitled to great weight" and "it is neither the duty nor prerogative of the courts to interfere in such legislative finding unless it clearly appears to be erroneous and without reasonable foundation"). *See* NRS 630.130(1)(a) (mandating that the Board enforce the provisions of this chapter).

To interpret NRS Chapter 630 as requiring a complaint from a private citizen would be inconsistent with the Board's statutory mandate to protect the public and would lead to unreasonable results, including preventing the Board from acting upon admitted misconduct.

Accordingly, the Board concludes that the IC acted within its authority to investigate and initiate disciplinary proceedings in this matter, as relevant to the limited issues presented on remand.

VI. CONCLUSION

The Board has conducted this supplemental review strictly in accordance with the District Court's remand order, which limited this proceeding to consideration and analysis of the affirmative defenses raised in Respondent's Pre-Hearing Motion to Dismiss and expressly affirmed the underlying violation as supported by substantial evidence.

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Within that limited scope, the Board has independently reviewed the existing administrative record and made specific findings and conclusions addressing each asserted affirmative defense. The Board emphasizes that this Supplemental Final Order does not reopen, revisit, or alter the District Court's affirmance of the Board's prior determination that Kaveh violated NRS 630.306(1)(b)(3).

Based upon the foregoing analysis, the Board finds that Kaveh's affirmative defenses do not provide a legal basis to disturb, modify, or set aside the discipline previously imposed. Accordingly, the Board concludes that the prior disciplinary action remains fully supported by the record, consistent with applicable law, and unaffected by the affirmative defenses raised on remand.

ORDER

Based upon the foregoing Supplemental Findings of Fact and Conclusions of Law, and good cause appearing therefore,

IT IS HEREBY ORDERED that:

1. The Board's prior determination that Kaveh violated NRS 630.306(1)(b)(3), remains affirmed and unchanged;

2. Kaveh's affirmative defenses, as presented in the Pre-Hearing Motion to Dismiss, are hereby rejected in their entirety;

3. The sanctions previously imposed, including a public reprimand and the assessment of costs and fees, remain in full force and effect; and

4. This Supplemental Final Order is issued in compliance with the District Court's remand order.

IT IS SO ORDERED.

DATED this ____day of June, 2026.

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____
NICK M. SPIRTOS, M.D., F.A.C.O.G.
President of the Board

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CERTIFICATION

I certify that the foregoing is the full and true original **SUPPLEMENTAL FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER** on file in the office of the Board of Medical Examiners in the matter of **SASSAN KAVEH, M.D.**, Case No. 23-10414-1.

I further certify that Nick M. Spirtos, M.D., F.A.C.O.G., is the President of the Nevada State Board of Medical Examiners and that full force and credit is due to his official acts as such; and that the signature to the foregoing **ORDER** is the signature of the said Nick M. Spirtos, M.D., F.A.C.O.G.

IN WITNESS THEREOF, I have hereunto set my hand in my official capacity as Secretary-Treasurer of the Nevada State Board of Medical Examiners.

DATED this ____ day of June, 2026.

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____
MAGGIE ARIAS-PETREL
Secretary-Treasurer and Public Member of the Board

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DISTRICT COURT

CLARK COUNTY, NEVADA

SASSAN KAVEH, M.D., Petitioner, vs. NEVADA STATE BOARD OF MEDICAL EXAMINERS, Respondent.	Case No. A-25-912226-J Dept. No.: 11

ORDER GRANTING IN-PART AND DENYING IN-PART PETITIONER SASSAN KAVEH, M.D.'S PETITION FOR JUDICIAL REVIEW

This matter came before the Court for hearing on October 23, 2025, and November 6, 2025, on Petitioner Sassan Kaveh, M.D.'s ("Petitioner" or "Dr. Kaveh") Petition for Judicial Review (the "Petition"). Appearing on behalf of Dr. Kaveh was his counsel of record, Johnathon Fayeghi, Esq. and David B. Barney, Esq., of the law firm Sklar Williams PLLC. Appearing on behalf of the Respondent, Nevada State Board of Medical Examiners ("Respondent" or the "Board"), was William P. Shogren, Deputy General Counsel to the Board. The Court, having reviewed and considered the Petition and all the papers and pleadings on file in this matter, including, but not limited to, Dr. Kaveh's Opening Brief, the Board's Answering Brief, Dr. Kaveh's Reply Brief, and the documents in the record of this matter from the formal hearing, as well as the arguments of counsel during the hearings on this matter and having taken the matter under advisement, and now being fully advised in the premises and good cause appearing, hereby issues the following Order.

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Case Number: A-25-912226-J

LEGAL STANDARD

The Nevada Administrative Procedure Act, codified at NRS 233B.010, *et seq*. ("NAPA"), governs the procedural and substantive law applicable to this matter. Under NRS 233B.125(1), "[j]udicial review of a final decision of an agency must be . . . (a) Conducted by the court without a jury; and (b) Confined to the record." NRS 233B.135(1)(a)-(b).

Issues of law are reviewed *de novo*. However, on factual issues, the Court's review is limited to the evidence contained in the record, and the Court will not substitute its judgment for that of the agency.

The standards for review of a petition for judicial review filed under NRS 233B are as follows:

> **NRS 233B.135 Judicial Review; Manner of conducting; burden of proof; standard of review.**
> . . .
>
> 2. The final decision of the agency shall be deemed reasonable and lawful until reversed or set aside in whole or in part by the court. The burden of proof is on the party attacking or resisting the decision to show that the final decision is invalid pursuant to subsection 3.
>
> 3. The court shall not substitute its judgment for that of the agency as to the weight of evidence on a question of fact. The court may remand or affirm the final decision or set it aside in whole or in part if substantial rights of the petitioner have been prejudiced because the final agency decision is:
>
> (a) In violation of constitutional or statutory provisions;
>
> (b) In excess of the statutory authority of the agency;
>
> (c) Made upon unlawful procedure;
>
> (d) Affected by other error of law;
>
> (e) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
>
> (f) Arbitrary or capricious or characterized by abuse of discretion.

FINDINGS OF FACT

At all times relevant, Dr. Kaveh was licensed by the Nevada State Board of Medical Examiners (Board) as a medical doctor under License No. 8320.

This matter comes before the Court on a Petition for Judicial Review of the Findings of Fact, Conclusions of Law, and Order (hereinafter, the "Final Order" or "Final Decision") entered on December 26, 2024, by the Board, wherein, after a formal hearing, the Board found Dr. Kaveh violated NRS 630.306(1)(b)(3), as alleged in Count I of the underlying Complaint. The Board ordered Dr. Kaveh to receive a Public Letter of Reprimand, reimburse the Board for its costs and fees expended in the investigation and prosecution of the matter in the amount of nine thousand six hundred forty-nine dollars and eighty-one cents ($9,649.81), and reported this discipline to the National Practitioner's Data Bank, as well as other appropriate entities as required by law.
ROA at 574-580.

During the administrative proceedings, Dr. Kaveh presented affirmative defenses and procedural challenges. On June 22, 2023, Dr. Kaveh filed an Answer to the formal Complaint. ROA at 014-016. The Answer listed affirmative defenses that were later addressed by way of a Motion to Dismiss. Id. at 015.

Pursuant to NRS 630.339(2), the answer must state in concise and plain language the respondent's defenses to each charge set forth in the complaint and must admit or deny the averments stated in the complaint. Notably, NRS 630.339 and NRS 662A.320 deems a failure to answer a complaint as a general denial of all charges and does not specifically provide for affirmative defenses.

On September 6, 2023, Dr. Kaveh filed a Pre-Hearing Motion to Dismiss (hereinafter, the "Motion to Dismiss"), requesting that the Hearing Officer dismiss the IC's Complaint in its entirety. ROA at 024-105. In the Motion to Dismiss, Dr. Kaveh argued, *inter alia*, that the Board failed to comply with NRS 630.311 when the IC authorized the Complaint for filing, that Dr. Kaveh was subject to disparate treatment in connection with the Board Action, that the relief sought by the Board should be barred by laches, and that Dr. Kaveh was denied due process by the Board in connection with the Board Action.

On September 19, 2023, the IC filed an Opposition to Dr. Kaveh's Motion to Dismiss, in which it argued, *inter alia*, that the motion was procedurally improper as NRS 622A.360 does not provide for such a motion, that the Board did not violate NRS 630.311, that laches is not available

as a matter of law, and that Dr. Kaveh was not treated differently than other providers. ROA at 123-136. Dr. Kaveh filed a Reply in support of the Motion to Dismiss on September 26, 2023. ROA at 137-198. On October 13, 2023, the Hearing Officer entered an Order Denying Respondent's Motion to Dismiss which indicated that she agreed with the Board's position on those issues. ROA at 227-230.

On August 29, 2024, the Board held a formal administrative hearing (hereinafter, the "Hearing") on the Board Action. In the time between the Order Denying Respondent's Motion to Dismiss, a new Hearing Officer presided over the formal Hearing. On September 27, 2024, the Hearing Officer entered her Findings and Recommendation in the Board Action ("Findings and Recommendation"). ROA at 541-543. In the Findings and Recommendation, the Hearing Officer found as follows regarding Dr. Kaveh's affirmative defenses:

> Prior to the hearing, Respondent, through motion practice, took issue with the procedural manner by which the charge against him was initiated and pursued. Written rulings as to the same were undertaken by a prior hearing officer who denied relief based thereon. As such, the hearing was limited to the merits of the charge . . .

On December 26, 2024, the Board entered its Findings of Fact, Conclusions of Law, and Order in the Board Action ("Final Order"). ROA at 574-580. The Final Order contained factual findings relating to the procedural history of the Board Action, and it stated that Findings and Recommendation were attached to the Final Order and incorporated therein by reference. The Hearing Officer's Findings and Recommendation, and by extension, the Board's Final Order, did not contain analysis of affirmative defenses previously presented by Dr. Kaveh because, while they were addressed in the record as part of motion practice, they were not related specifically to the violation charged and not reconsidered at the time of the Hearing.

While the Court finds that substantial evidence exists in the administrative record to support the Board's findings and conclusions that Dr. Kaveh violated NRS Chapter 630 as alleged in the Complaint, the Court also finds that the Board's Final Order should have included specific analysis or detailed findings of fact and conclusions of law regarding the affirmative defenses presented by Dr. Kaveh.

CONCLUSIONS OF LAW

Under NRS 233B.135(3), the Court may remand a final agency decision if substantial rights of the petitioner have been prejudiced because the final agency decision was made upon unlawful procedure or affected by other error of law. Because the Court found that substantial evidence supports the Board's findings, a complete reversal of the Board's final decision is not warranted. However, the Court concludes that the Board's failure to include an analysis of Dr. Kaveh's affirmative defenses in the Final Order constitutes a procedural deficiency that prejudices Dr. Kaveh's substantial rights. A remand is required for the limited purpose of supplementing the record with the necessary legal analysis of the affirmative defenses presented.

ORDER

In accordance with the above,

IT IS ORDERED, ADJUDGED AND DECREED that Dr. Kaveh's Petition is **GRANTED IN-PART** and **DENIED IN-PART**. The Court finds that the Board's Final Order determining that Dr. Kaveh violated NRS 630.306(1)(b)(3) is supported by substantial evidence in the administrative record. The Court therefore affirms the Board's determination of a violation, and Dr. Kaveh's Petition is **DENIED IN-PART** as to arguments against the Board's findings of violations.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that to the extent that the Final Order does not address the affirmative defenses raised in Dr. Kaveh's Answer in the administrative proceeding, the Court **REMANDS** this matter to the Board for a limited supplemental hearing based upon the existing administrative record solely to address Dr. Kaveh's affirmative defenses presented in his Pre-Hearing Motion to Dismiss, and to issue a supplemental Final Order with analysis of those affirmative defenses presented.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the sanctions imposed by the Board, including a public reprimand and the assessment of costs and fees, remain in full force and effect during and after the remand, except to the extent that the Board, upon analysis of the affirmative defenses presented, determines that such defenses preclude the application of the original sanctions.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Court retains jurisdiction to review the Board's supplemental Final Order once the remand is complete.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that each of the Court's findings of fact is to be considered a conclusion of law, and each of the Court's conclusions of law is to be considered a finding of fact, as may be necessary or appropriate to carry out the Orders set forth herein.

IT IS SO ORDERED.

Dated this 15th day of February, 2026



DISTRICT COURT JUDGE

B77 D33 9CCE AF4B
Anna Albertson
District Court Judge

Respectfully Submitted by:

/s/ William P. Shogren

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DISTRICT COURT
CLARK COUNTY, NEVADA

Sassan Kaveh, M.D., Petitioner(s) vs. Nevada State Board Of Medical Examiners, Respondent(s)	CASE NO: A-25-912226-J DEPT. NO. Department 11

AUTOMATED CERTIFICATE OF SERVICE

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Order was served via the court's electronic eFile system to all recipients registered for e-Service on the above entitled case as listed below:

Service Date: 2/15/2026

Johnathon Fayeghi	jfayeghi@sklar-law.com
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3

Electronically Filed
5/1/2025 12:24 PM
Steven D. Grierson
CLERK OF THE COURT

TOR
Sarah A. Bradley, Esq.
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Attorneys for Respondent

DISTRICT COURT

CLARK COUNTY, NEVADA

SASSAN KAVEH M.D., Petitioner, vs. NEVADA STATE BOARD OF MEDICAL EXAMINERS, Respondent.	Case No. A-25-912226-J Dept. No.: 11

RESPONDENT NEVADA STATE BOARD OF MEDICAL EXAMINERS'

TRANSMITTAL OF RECORD

COMES NOW, Respondent, the NEVADA STATE BOARD OF MEDICAL EXAMINERS, by and through its counsel, Sarah A. Bradley, Esq., Deputy Executive Director, and William P. Shogren, Esq. Deputy General Counsel for the Board, and pursuant to

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

NRS 233B.131(1)(b), hereby submits a certified copy of the remainder of the proceeding under review.

DATED this 1st day of May, 2025.

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: */s/ William P. Shogren*

SARAH A. BRADLEY, ESQ.
Nevada Bar No. 9981
Deputy Executive Director
WILLIAM P. SHOGREN, ESQ.
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CERTIFICATE OF CUSTODIAN OF RECORDS

STATE OF NEVADA)
) ss.
COUNTY OF WASHOE)

Now comes, Edward O. Cousineau, J.D., who after first being duly sworn, deposes and says:

1. That I am the Executive Director for the Nevada State Board of Medical Examiners and in such capacity am the custodian of the records of the agency; and

2. That I have examined the original records of the remainder of the proceedings under review pursuant to NRS 233B.131(1)(b), and hereby certify that a true and exact copy of the original on file has been made and that the reproduction of them attached hereto is true and complete.

Executed on: 4/28/25

Signature of Custodian of Records

Subscribed and sworn to by Edward O. Cousineau, J.D.
in the presence of Margaret Byrd (notary)
on this 28th day of April, 2025.

NOTARY PUBLIC

MARGARET F BYRD
Notary Public
State of Nevada
Appt. No. 10-3277-2
My Appt. Expires Sep. 3, 2026

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

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Nevada State Board of Medical Examiners, and that on this 1st day of May, 2025, I served a true and correct copy of the foregoing **RESPONDENT NEVADA STATE BOARD OF MEDICAL EXAMINERS' TRANSMITTAL OF RECORD** with the Clerk of the Court utilizing the Odyssey E-File system, which will send notice of electronic filing to the following parties:

JOHNATHON FAYEGHI, ESQ.
DAVID B. BARNEY, ESQ.
Sklar Williams, PLLC
410 South Rampart Boulevard, Suite 350
Las Vegas, Nevada 89145
Attorneys for Respondent

HENNA RASUL, ESQ.
Senior Deputy Attorney General
Office of the Attorney General
100 N. Carson Street
Carson City, Nevada 89701

/s/ Mercedes Fuentes
An Employee of the Nevada State Board of Medical Examiners

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
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EXHIBIT A

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
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(775) 688-2559

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **SASSAN KAVEH, M.D.,** **Respondent.**	**Case No. 23-10414-1**

FILED
MAY - 8 2023
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 William P. Shogren, Deputy General Counsel and attorney for the IC, having a reasonable basis to believe that Sassan Keveh, M.D., (Respondent) violated the provisions of Nevada Revised Statutes (NRS) Chapter 630 and Nevada Administrative Code (NAC) Chapter 630 (collectively, the Medical Practice Act), hereby issues its Complaint, stating the IC's charges and allegations as follows:

1. Respondent was at all times relative to this Complaint a medical doctor holding an active license to practice medicine in the State of Nevada (License No. 8320). Respondent was originally licensed by the Board on July 18, 1997.

2. Respondent also, at all times relative to this Complaint, held an active Nevada Controlled Substance Registration, Certificate No. CS08877, issued by the Nevada State Board of Pharmacy (Pharmacy Board).

3. On or about August 25, 2021, Respondent was served with the First Amended Notice of Intended Action and Accusation (Accusation) by the Pharmacy Board, alleging that in 2021 Respondent violated various statutes and regulations within the Pharmacy Board's jurisdiction.

[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 Bret W. Frey, M.D., and Col. Eric D. Wade, USAF (Ret.).

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, Nevada 89521
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4. In pertinent part, the Pharmacy Board Accusation alleged that Respondent prescribed Edarbyclor, a dangerous drug, to a patient, and that the patient subsequently returned the unused medication to Respondent. The Pharmacy Board Accusation further alleged that Respondent then dispensed the unused Edarbyclor to another patient, in the original container with the original label as dispensed to the first patient. The Pharmacy Board further alleged that Respondent dispensed this medication without a valid dispensing practitioner registration.

5. On or about October 15, 2021, Respondent and the Pharmacy Board entered into a "Stipulation and Order" (Pharmacy Board Stipulation), hereto attached as **Exhibit 1**, whereby Respondent did not contest the allegations in the Accusation and acknowledged that counsel for the Pharmacy Board "could present such evidence at an administrative hearing to establish a factual basis" for violations against him.

6. Respondent accepted the Pharmacy Board Stipulation "as a public reprimand regarding his duties and responsibilities as a prescribing practitioner," and agreed to pay a fine and also to reimburse the Pharmacy Board for a portion of the costs incurred in investigating and prosecuting the matter.

COUNT I

NRS 630.306(1)(b)(3) – Violation of Statutes and Regulations of the Nevada State Board of Pharmacy

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

8. Respondent is a practitioner as defined by NRS 639.0125(1), as a physician who holds a license to practice medicine in the State of Nevada.

9. NRS 630.306(1)(b)(3) provides that engaging in conduct that violates a provision of Chapter 639 of NRS, or a regulation adopted by the Pharmacy Board pursuant thereto, that is applicable to a licensee who is a practitioner, as defined in NRS 639.0125, is grounds for initiating discipline against a licensee.

10. Respondent acknowledged the evidence against him would prove violations of NRS Chapter 639 when he entered into the Pharmacy Board Stipulation. Respondent further

accepted the Pharmacy Board Stipulation "as a public reprimand regarding his duties and responsibilities as a prescribing practitioner." *See* **Exhibit 1**. Respondent thereby engaged in conduct that violated a provision of Chapter 639 of NRS, or a regulation adopted by the Pharmacy Board pursuant thereto.

11. By reason of the foregoing, Respondent is subject to discipline by the Board as provided in NRS 630.306(1)(b)(3) and 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 8th day of May, 2023.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

WILLIAM P. SHOGREN
Deputy General Counsel
9600 Gateway Drive
Reno, NV 89521
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Attorney for the Investigative Committee

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VERIFICATION

STATE OF NEVADA)
: ss.
COUNTY OF WASHOE)

Bret W. Frey, 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 8th day of May, 2023.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____
BRET W. FREY, M.D.
Chairman of the Investigative Committee

EXHIBIT 1

EXHIBIT 1

FILED
OCT 15 2021
NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY, **Petitioner,** **v.** **SASSAN KAVEH, MD,** **Certificate of Registration No. CS08877,** **Respondent.**	**CASE NO. 21-051-CS-N** **STIPULATION AND ORDER**

Brett Kandt, General Counsel for Petitioner the Nevada State Board of Pharmacy (Board), and Respondent Sassan Kaveh, MD, Certificate of Registration No. CS08877, by and through counsel, Keith A. Weaver, Esq. and Melanie L. Thomas, Esq., **HEREBY STIPULATE AND AGREE THAT:**

1. The Board has jurisdiction over Respondent and this matter.

2. On or about August 25, 2021, Respondent was served with the First Amended Notice of Intended Action and Accusation (Accusation) on file in this matter together with the Statement to Respondent and Notice of Hearing.

3. On or about September 24, 2021, Respondent filed an Answer and Notice of Defense to the Accusation.

4. Respondent is fully aware of the right to seek the advice of counsel in this matter and obtained the advice of counsel prior to entering into this Stipulation.

5. Respondent is aware of the right to a hearing on the matters alleged in the Accusation, the right to reconsideration, the right to appeal and any and all other rights which may be accorded to him pursuant to NRS Chapter 233B (Nevada Administrative Procedure Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).

6. Conditioned on the acceptance of this Stipulation by the Board, and with the exception of the right to challenge any determination that Respondent has failed to comply with the provisions of this Stipulation, Respondent hereby freely and voluntarily waives his rights to a hearing, reconsideration, appeal and any and all other rights related to this action that may be accorded to him by NRS Chapter 233B (Nevada Administrative Procedure Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).

7. Respondent does not contest the allegations in the Accusation, but acknowledges that Board staff prosecuting this case could present such evidence at an administrative hearing to establish a factual basis for the violations alleged in the Accusation, *to wit*, that:

A. Respondent dispensed a dangerous drug to a patient without a valid dispensing practitioner registration, in violation of NRS 453.226, NRS 453.321, NRS 453.377, NRS 453.381, NRS 454.215, NRS 454.221, NRS 454.321, NRS 454.356, NRS 639.100, NRS 639.23505 and/or NAC 639.742;

B. Respondent redispensed unused medication and thus a misbranded, mislabeled and potentially adulterated drug in violation of NRS 585.410, NRS 585.520, NRS 639.2801, NRS 639.282(1), NAC 639.601(1) and/or NAC 639.760; and

C. Respondent has performed his duties as the holder of a Nevada controlled substance registration in an incompetent, unskillful or negligent manner and engaged in unprofessional conduct as defined in NAC 639.945(1)(i) and (k), and committed an act that renders registration inconsistent with the public interest.

8. Those violations are plead with particularity in the Accusation, and are grounds for action pursuant to NRS 453.236(1), NRS 453.241(1), NRS 639.210 and NRS 639.255.

9. To resolve this matter without incurring any further costs or the expense associated with a hearing, the Board and Respondent Sassan Kaveh, MD, Certificate of Registration No. CS08877, stipulate to the following penalties:

A. Respondent shall accept this Stipulation and Order as a public reprimand regarding his duties and responsibilities as a prescribing practitioner;

B. Respondent shall pay a fine of Three Thousand Dollars ($3000.00) for the violations, payable by *cashier's check* or *certified check* or *money order* made payable to "State of Nevada, Office of the Treasurer," to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within thirty (30) days of the effective date of this Order;

C. Respondent shall pay One Thousand Five Hundred Dollars ($1500.00) to partially reimburse the Board for recoverable attorney's fees and costs incurred in investigating and prosecuting this matter, payable by *cashier's check* or *certified check* or *money order* made payable to "Nevada State Board of Pharmacy," to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within thirty (30) days of the effective date of this Order; and

D. Respondent shall comply with all federal and state statutes and regulations regarding controlled substances and dangerous drugs.

10. Any failure by Respondent to comply with the terms of this Order may result in issuance by the Executive Secretary of an order to show cause pursuant to NAC 639.965 directing that Respondent to appear before the Board at the next regularly scheduled meeting for a show cause hearing. If such a hearing results in a finding of a violation of this Order by Respondent, the Board may impose additional discipline upon Respondent consistent with the provisions of NRS Chapter 453 and/or Chapter 639.

11. General Counsel will present this Stipulation to the Board for approval pursuant to NRS 622.330 at the Board's regularly scheduled public meeting on October 13, 2021. Respondent will appear at the meeting to answer questions from the Board Members and/or Board Staff. The Board Members and Staff may discuss and deliberate regarding this Stipulation, even if Respondent is not present at the meeting.

12. The Board has discretion to accept this Stipulation, but it is not obligated to do so. If this Stipulation is approved by the Board, it shall be a public record pursuant to NRS 622.330 and shall be reported to the National Practitioner Data Bank pursuant to 42 U.S.C. § 1396r–2 and 45 CFR Part 60.

13. If the Board rejects any part or all of this Stipulation, and unless they reach an alternative agreement on the record during the hearing, the parties agree that a full hearing on the merits of this matter may be heard by the Board. The terms and admissions herein may not be used or referred to in a full hearing on the merits of this matter.

14. Subject to the approval of this Stipulation by the Board, the Board and Respondent agree to release each other from any and all additional claims arising from the facts set forth in the Accusation on file herein, whether known or unknown that might otherwise have existed on or before the effective date of this Order.

Respondent has fully considered the charges and allegations contained in the *Notice of Intended Action and Accusation* in this matter, and the terms of this Stipulation, and has freely and voluntarily agreed to the terms set forth herein, and waived certain rights, as stated herein.

AGREED:

Signed this 1 day of October, 2021

SASSAN KAVEH, MD,
Certificate of Registration No. CS08877

Signed this 1st day of October, 2021

BRETT KANDT, ESQ.
General Counsel
Nevada State Board of Pharmacy

APPROVED AS TO FORM AND CONTENT
this 1st day of October, 2021

KEITH A. WEAVER, ESQ.
MELANIE L. THOMAS, ESQ.
Counsel for Respondent

DECISION AND ORDER

The Nevada State Board of Pharmacy hereby adopts the foregoing Stipulation as its decision as to Sassan Kaveh, MD, Certificate of Registration No. CS08877, in Case No. 21-051-CS-N and hereby orders that the terms of the foregoing Stipulation be made effective upon execution below.

IT IS SO ORDERED.

Entered this 13th day of October, 2021.

Helen Park, Pharm.D.
President
Nevada State Board of Pharmacy

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 15th day of October, 2021, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Keith L. Weaver, Esq.
Melanie L. Thomas, Esq.
Lewis Brisbois Bisgaard & Smith LLP
6385 S. Rainbow Blvd., Suite 600
Las Vegas, NV 89118

KRISTOPHER MANGOSING

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **SASSAN KAVEH, M.D.** **Respondent.**	**Case No. 23-10414-1**

FILED

SEP 08 2023

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

ERRATA TO COMPLAINT

The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board), by and through William P. Shogren, Deputy General Counsel and attorney for the IC hereby submit this Errata to its Complaint in Case No. 23-10414-1, filed May 8, 2023, and should be appended thereto. An inadvertent clerical error was discovered on page 1, footnote 1, and should read as follows in its entirety:

> "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 Bret W. Frey, M.D., Chair, Chowdhury H. Ahsan, M.D., Ph.D., FACC, and Col. Eric D. Wade, USAF (Ret.)."

DATED this 8th day of September, 2023.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

WILLIAM P. SHOGREN
Deputy General Counsel
9600 Gateway Drive
Reno, NV 89521
Tel: (775) 688-2559
Email: shorgrenw@medboard.nv.gov
Attorney for the Investigative Committee

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9600 Gateway Drive
Reno, Nevada 89521
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EXHIBIT B

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **SASSAN KAVEH, M.D.,** **Respondent.**	**Case No. 23-10414-1**

FILED
MAY 16 2023
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

ACCEPTANCE OF SERVICE

Melanie L. Thomas, Esq., counsel for, Sassan Kaveh, M.D., Respondent, hereby acknowledges that she received a filed-stamped copy of the formal **COMPLAINT** by the Investigative Committee of the Nevada State Board of Medical Examiners in this matter by electronic mail, and in doing so, accepts service of the same and specifically waives formal service of process by mail or by other means.

DATED this 16th day of May, 2023.

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: _____

MELANIE L. THOMAS, ESQ.
6385 S. Rainbow Blvd., Suite 600
Las Vegas, NV 89118
Tel: (702) 893-3383
Email: Melanie.Thomas@lewisbrisbois.com
Attorney for Respondent

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
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EXHIBIT C

LEWIS BRISBOIS BISGAARD & SMITH LLP
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Melanie.Thomas@lewisbrisbois.com
Attorneys for Sassan Kaveh, M.D.

FILED
JUN 22 2023
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: SASSAN KAVEH, M.D., Respondent.	CASE NO. 23-10414-1 **ANSWER**

SASSAN KAVEH, M.D. ("Dr. Kaveh"), by and through his counsel LEWIS BRISBOIS BISGAARD & SMITH, LLP hereby submits his Answer to the Board's Complaint filed May 8, 2023.

ANSWER

1. Respondent admits the allegations in Paragraph 1.

2. Respondent admits the allegations in Paragraph 2.

3. Respondent admits the allegations in Paragraph 3.

4. Answering Paragraph 4, Respondent admits generally this summary of the Pharmacy Board Accusation, noting that the Edarbyclor was sealed and unused.

5. Answering Paragraph 5, Respondent admits that he entered into a Stipulation and Order with the Pharmacy Board on or about October 15, 2021, upon the advice of his counsel.

6. Answering Paragraph 6, Respondent admits that he entered into a Stipulation and Order with the Pharmacy Board on or about October 15, 2021, upon the advice of his counsel.

COUNT I

NRS 630.306(1)(b)(3) - Violation of Statutes and Regulations of the Nevada State Board of Pharmacy

7. Answering Paragraph 7, Respondent repeats and realleges all of the above paragraphs as if fully set forth herein.

8. Paragraph 8 calls for a for a legal conclusion, for which no response is required. Respondent admits that he is a Physician who holds a license to practice medicine in the State of Nevada.

9. Paragraph 9 calls for a for a legal conclusion, for which no response is required. Respondent denies that discipline is appropriate in this setting.

10. Paragraph 10 calls for a for a legal conclusion, for which no response is required. Respondent denies the remainder of the allegations in Paragraph 10.

11. Paragraph 11 calls for a for a legal conclusion, for which no response is required. Respondent denies the allegations contained in Paragraph 11.

FIRST AFFIRMATIVE DEFENSE

The Board's Complaint fails to state a claim on which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

The Board's Complaint, and each cause of action therein, is barred by the doctrine of laches, estoppel, and the doctrine of unclean hands.

THIRD AFFIRMATIVE DEFENSE

Respondent denies each and every allegation of the Board's Complaint not specifically admitted or otherwise pled to herein.

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WHEREFORE, Respondent prays for judgment as follows:

1. That all charges against him be dismissed;

2. For such other and further relief as may be deemed just and proper in these premises.

June 20, 2023

LEWIS BRISBOIS BISGAARD & SMITH LLP

By /s/ Melanie L. Thomas
MELANIE L. THOMAS
Nevada Bar No. 12576
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
Melanie.Thomas@lewisbrisbois.com
Attorneys for Sassan Kaveh, M.D.

EXHIBIT D

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **SASSAN KAVEH, M.D.,** **Respondent.**	**Case No. 23-10414-1**

FILED
AUG 10 2023
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

SCHEDULING ORDER

TO: William P. Shogren
Deputy General Counsel
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, NV 89521
shogrenw@medboard.nv.gov

~and~

Sassan Kaveh, M.D.
c/o Melanie L. Thomas, Esq.
6385 South Rainbow Blvd., #600
Las Vegas, NV 89118
Melanie.Thomas@lewisbrisbois.com

On August 8, 2023, an Early Case Conference was held via *Zoom* conference call. Together with Hearing Officer Nancy Moss Ghusn, William P. Shogren., Deputy General Counsel, appeared on behalf of the Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board) and Melanie L. Thomas, Esq., appeared on behalf of Respondent Sassan Kaveh, M.D.

In compliance with Nevada Administrative Code 630.465, a prehearing conference will be conducted on **September 11, 2023, via *Zoom* (either with or without video is acceptable) beginning at the hour of 1:15 p.m. Pacific Daylight Time.** The *Zoom* teleconference has been coordinated by the Hearing Officer and links have been sent.

All parties shall exchange witness and documents intended for use at the hearing on or before the pre-hearing conference. This list shall include the qualifications and anticipated testimony of the

witness and the Bates stamp numbers on each of the exhibits. If a witness is not included on the list, that witness may not be allowed to testify at the hearing unless good cause is shown for their testimony. Likewise, if a document has not been listed in a prehearing conference statement, it may not be admitted into evidence unless good cause is shown for its admittance.

All pre-hearing motions shall be served on all parties and this hearing officer on by **September 5, 2023.** Responses and Oppositions to pre-hearing motions shall be served on or before **September 19, 2023.** Service of prehearing motions, responses and replies may be effectuated by U.S. Mail or by electronic mail (e-mail) to all parties known email addresses and this hearing officer.

The Prehearing Statement, and Replies, if any, are due **September 26, 2023.** If Counsel or the Parties do not intend to file Replies, please so indicate by the day after the due date of the Opposition, or by September 20, 2023. **The formal hearing in this matter is hereby scheduled for October 17, 2023, starting at the hour of 9:30 a.m.,** and will be held at the conference room at the Northern offices of the Nevada State Board of Medical Examiners and remotely from the Southern offices if necessary. The Northern Office is located at 9600 Gateway Drive, Reno, Nevada. Should it be necessary for appearances in Las Vegas, the Southern Office is located at 325 E. Warm Springs Road, Ste. 225, Las Vegas, Nevada A court reporter will take sworn testimony during the formal hearing and will produce a transcript to the hearing officer and all parties at their request and at their expense.

Once the formal hearing is concluded the hearing officer will submit to the Board a synopsis of the testimony recorded by the court reporter and will 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. *See* NAC 630.470.

If a witness wishes to appear remotely[1] a request must be made to the hearing officer and the hearing officer must approve via order for appearance by the witness remotely. A request must be made in writing for a remote appearance on a date to be determined at the Pre-Hearing Conference.

Stipulation to stay the above dates shall be made to the hearing officer either by email or by formal, filed stipulation as soon as the parties are aware of the necessity for a stay. Any stay request

[1] Remotely means witness appearances not occurring in the Las Vegas office or Reno office of the Nevada State Board of Medical Examiners.

will require a status conference to be set unless a formal settlement agreement is being presented to the Board at the next regularly held Board meeting. If a formal settlement agreement is being placed on the Board meeting agenda, notification of acceptance or denial of the settlement agreement by the Board shall be delivered to this hearing officer no later than five (5) days after the Board meeting by the Board attorney.

All parties to this case are required to keep the hearing office informed of events, progress and resolution of this case.

IT IS SO ORDERED.

DATED this 9th day of August, 2023.

NANCY MOSS GHUSN, ESQ.
Email: nmg416@gmail.com
Tel: (775) 772-5644
Hearing Officer

EXHIBIT E

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **SASSAN KAVEH, M.D.** **Respondent.**	**Case No. 23-10414-1**

FILED
SEP - 5 2023
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 Scheduling Order filed August 10, 2023.

I. LIST OF WITNESSES

The IC lists the following witnesses whom it may call at the hearing on the charges in the Complaint against Respondent filed herein:

a. Ernesto Diaz, Investigator
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, NV 89521

Mr. Diaz, or his designee, is expected to verify documentary evidence obtained during the investigation of this case and testify regarding the investigation of this matter.

b. Sassan Kaveh, M.D.
c/o Melanie L. Thomas, Esq.
6385 South Rainbow Blvd., #600
Las Vegas, NV 89118

Dr. Kaveh is expected to testify as to his conduct and to respond to the allegations in the Complaint.

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c. All witnesses identified by Respondent in his prehearing conference statement and/or in any subsequent amended, revised, or supplemental prehearing conference statement, or list of witnesses disclosed by Respondent of persons he may call to testify at the hearing herein.

d. The IC reserves the right to amend and supplement this list as required for prosecution of this case.

II. LIST OF EXHIBITS

The IC lists the following exhibits that it may introduce at the hearing on the charges in the Complaint against Respondent filed herein. Additionally, the IC reserves the right to rely on all exhibits listed in Respondent's prehearing conference statement and any supplement and/or amendment thereof.

EXHIBIT NO.	DESCRIPTION	BATES RANGE (NSBME)
1	NSBME Formal Complaint, (Dated May 8, 2023)	001-011
2	Acceptance of Service (Formal Complaint), (Dated May 16, 2023)	012
3	Respondent's Answer to the NSBME Formal Complaint, (Filed June 22, 2023)	013-015
4	Letter from Respondent's Counsel RE Reporting Pharmacy Board Action, dated November 10, 2021	016-017
5	Stipulation and Order, Nevada State Board of Pharmacy, (Filed October 15, 2021)	018-023
6	First Amended Notice of Intended Action and Accusation, Nevada State Board of Pharmacy, (Filed August 25, 2021)	024-033
7	Nevada Revised Statute 630.306(1)(b)(3)	034-035

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

8	Nevada Revised Statute 639.210(12)	036

The IC reserves the right to amend and supplement this list as required for prosecution of this case.

DATED this 5th day of September, 2023.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

WILLIAM P. SHOGREN
Deputy General Counsel
9600 Gateway Drive
Reno, NV 89521
Tel: (775) 688-2559
Email: shogrenw@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

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 September, 2023, I served a file-stamped copy of the foregoing **PREHEARING CONFERENCE STATEMENT OF THE INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS** with accompanying Exhibits 1-8 via Fed Ex 2-Day Mail, to:

SASSAN KAVEH, M.D.
c/o Melanie L. Thomas, Esq.
Lewis Brisbois Bisgaard & Smith, LLP
6385 S. Rainbow Blvd., Suite 600
Las Vegas, NV 89118

Tracking No.: 773312281495

A copy of the IC's Prehearing Conference Statement and Exhibits were also sent by U.S. regular mail to:

NANCY L. MOSS GHUSN, ESQ.
675 W. Moana Ln., Ste. 107
Reno, NV 89509
Hearing Officer

DATED this 5th day of September, 2023.

MERCEDES FUENTES
Legal Assistant
Nevada State Board of Medical Examiners

EXHIBIT F

LEWIS BRISBOIS BISGAARD & SMITH LLP
MELANIE L. THOMAS
Nevada Bar No. 12576
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
Telephone: 702.893.3383
Facsimile: 702.893.3789
Melanie.Thomas@lewisbrisbois.com
Attorneys for Sassan Kaveh, M.D.

FILED
SEP - 6 2023
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: SASSAN KAVEH, M.D., Respondent.	CASE NO. 23-10414-1 **SASSAN KAVEH, M.D.'S PRE-HEARING MOTION TO DISMISS** **[Oral Argument Requested on the Record]**

SASSAN KAVEH, M.D. ("Dr. Kaveh"), by and through his counsel LEWIS BRISBOIS BISGAARD & SMITH, LLP hereby submits his Pre-Hearing Motion to Dismiss pursuant to NRS 622A.360(2)(e).

DATED: September 5, 2023

Respectfully submitted,

MELANIE L. THOMAS
LEWIS BRISBOIS BISGAARD & SMITH LLP

/s/ Melanie L. Thomas
By: _____
Attorneys for Sassan Kaveh, M.D.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

On May 8, 2023, the Nevada State Board of Medical Examiners ("Medical Board") filed this action against Sassan Kaveh, M.D. ("Dr. Kaveh") after he reported a stipulation for public reprimand from the Nevada State Board of Pharmacy ("Pharmacy Board") on November 10, 2021[1]—and not as a result of any patient care complaint. To be clear, there have been no patient complaints made against Dr. Kaveh related to this matter.

The basis for the Complaint is purportedly a "reciprocal discipline." In other words, the Medical Board is solely relying on NRS 630.306(1)(b)(3),[2] and no separate allegations of misconduct, to impose additional discipline upon Dr. Kaveh. Instead of initiating these proceedings in reasonable proximity to the Pharmacy Board settlement, the Medical Board has prejudiced Dr. Kaveh by waiting **seventeen (17) months and twenty-eight (28) days (544 days total!!)** after first receiving notice.[3] In the setting of this concerning and avoidable delay, Deputy General Counsel has advised that non punitive admonishment is not an option because the Investigative Committee authorized the filing of the Complaint.[4]

"The [Medical] Board responds with expediency to complaints against our licensees by conducting fair, complete investigations that result in appropriate action."[5] The Medical Board never received a patient complaint regarding Dr. Kaveh, but instead unilaterally opened its own investigation, which it then submitted to an Investigative Committee that

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[1] Dr. Kaveh accepted this reprimand on October 13, 2021.

[2] "The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure: [...] (b) Engaging in any conduct: [...] (3) Which is in violation of [...] a regulation adopted by the State Board of Pharmacy pursuant thereto, that is applicable to a licensee who is a practitioner, as defined in NRS 639.0125."

[3] This is more than eighteen (18) months and twenty-five days since the Stipulation and Order was entered by the Pharmacy Board.

[4] Referring to NRS 630.299(1): "Authority of Board or investigative committee to issue letter of warning, letter of concern or nonpunitive admonishment. 1. [...] [T]he Board or any investigative committee of the Board may issue to the person a letter of warning, a letter of concern or a nonpunitive admonishment at any time before the Board has initiated any disciplinary proceedings against the person." [emphasis added].

[5] *See* Mission Statement (available at https://medboard.nv.gov/About/About/) [last accessed Sept. 5, 2023) [emphasis added].

was not formed in compliance with the Nevada Revised Statutes or as a result of its own publicly available procedures.[6] The Medical Board decides whether to initiate public discipline proceedings in secret meetings of the Investigative Committee pursuant to NRS 630.311, which requires the presence of *at least* three (3) members.

Non punitive admonishment would have been the only appropriate and reasonable action under these circumstances. When that option was arbitrarily denied to Dr. Kaveh, defense counsel turned to the available public records for answers and/or direction to explain the unnecessarily heavy-handed approach.

Dr. Kaveh's counsel has been unable to find any other public discipline initiated using NRS 630.306(1)(b)(3) as a basis, that was initiated more than ninety-five (95) days after the Pharmacy Board discipline was imposed (compared to five hundred forty-four (544) plus days in this case).

Dr. Kaveh's counsel has been unable to find any other public discipline initiated using NRS 630.306(1)(b)(3) as the sole basis for discipline (other cases had separate medical board violations alleged).

Dr. Kaveh's counsel has been unable to find any other public discipline initiated using NRS 630.306(1)(b)(3) as a basis for additional discipline, where the Investigative Committee failed to comply with NRS 630.311(1).[7] *See* **Exhibits B-E.**[8]

Part of the delegation of self-policing authority to administrative bodies requires that these administrative proceedings are not conducted in a manner that is arbitrary and capricious. Where the Medical Board seeks to impose consequential, statutory discipline for alleged statutory non-adherence on its members, there must be assurances that the

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[6] *See* The Complaint Process **(Exhibit A)**.

[7] "[A] committee designated by the Board and consisting of members of the Board **shall** review each complaint and conduct an investigation to determine if there is a reasonable basis for the complaint. **The committee must be composed of at least three members of the Board**, at least one of whom is not a physician." **[emphases added]**.

[8] *See* **Exhibit B** (Complaint Case No. 18-8756-1); *see also* **Exhibit C** (Complaint Case No. 19-38366-1); *see also* **Exhibit D** (Complaint Case No. 19-33320-1); *see also* **Exhibit E** (Complaint Case No. 20-18832-1).

Medical Board follows the same statutory scheme itself. Dr. Kaveh is entitled to due process, he has not received the same.

As the old saying goes, "What's good for the goose is good for the gander." In order to uphold the integrity of the Medical Board and assure fairness to all those that come before it, dismissal of the Medical Board's Complaint is required for failure to comply with NRS 630.311(1) and thus, pursuant to NRCP 12(c). Further, principles of equity and estoppel further support dismissal given the unreasonable and prejudicial delay in bringing these purportedly reciprocal proceedings two calendar years after the allegedly qualifying conduct occurred. For these reasons, Dr. Kaveh respectfully requests the Medical Board's Complaint be dismissed.

II. LEGAL STANDARD

A. JUDGMENT ON THE PLEADINGS

Pursuant to NRCP 12(c), "[a]fter the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings." The standard of review is equivalent to a motion to dismiss brought pursuant to NRCP 12(b)(5). "A judgment on the pleadings is reviewed in the same manner as a dismissal under NRCP 12(b)(5)." *Peck v. Zipf*, 407 P.3d 775, 778 (Nev. 2017); citing *Sadler v. PacifiCare of Nev., Inc.*, 130 Nev. Adv. Rep. 98, 340 P.3d 1264, 1266 (2014). Failure to comply with statutory requirements also renders a claim subject to dismissal. *Borger v. District Court*, 120 Nev. 1021, 102, 102 P.3d 600 (2004).

B. INVESTIGATIVE COMMITTEE COMPOSITION REQUIREMENTS

Pursuant to NRS 630.311, an Investigative Committee must be composed of at least three (3) members:

> **NRS 630.311 Review and investigation of complaint by committee designated by Board; formal complaint; proceedings confidential; publication of summary of proceedings and determinations.**
>
> 1. Except as otherwise provided in NRS 630.323, a committee designated by the Board and consisting of members of the Board shall review each complaint and conduct an investigation to determine if there is a reasonable basis for the complaint. **The committee must be composed of at least three members of the Board**, at least one of whom is not a physician. The

> committee may issue orders to aid its investigation including, but not limited to, compelling a physician to appear before the committee.
> [...]
> 3. **The proceedings of the committee are confidential** and are not subject to the requirements of NRS 241.020. Within 20 days after the conclusion of each meeting of the committee, the Board shall publish a summary setting forth the proceedings and determinations of the committee. The summary must not identify any person involved in the complaint that is the subject of the proceedings.

NRS 630.311. **[emphasis added]**; *see also* NRS 0.025(c)("Must" expresses a requirement when: (1) The subject is a thing, whether the verb is active or passive."); *see also* NRS 0.025(d)("'Shall' imposes a duty to act.").

III. STATEMENT OF FACTS

A. MEDICAL BOARD NON-COMPLIANCE

Since Dr. Kaveh's voluntary reporting of the stipulation for public reprimand from the Pharmacy Board to the Medical Board on November 10, 2021 and prior to the filing of the Complaint on May 8, 2023:

1) The Investigative Committee of the Medical Board met fourteen (14) times since Dr. Kaveh provided notice of his settlement with the Pharmacy Board:

- November 10, 2021
- November 19, 2021
- February 9, 2022
- February 18, 2022
- May 11, 2022
- May 31, 2022
- August 11, 2022
- August 19, 2022
- August 24, 2022
- November 9, 2022
- November 18, 2022
- February 8, 2023
- February 9, 2023
- February 17, 2023

See Combined Summary Reports of Investigative Committees of the Medical Board **(Exhibit F)**.

2) None of Summary Reports of the Investigative Committee meetings listed Bret W. Frey, M.D. and Col. Eric D. Wade, USAF (Ret.) as the only two members in attendance. **(Exhibit F).**

3) All of the summary reports from the Investigative Committee meetings listed three (3) members. **(Exhibit F)**.

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B. FACTUAL BACKGROUND[9]

Upon the advice of counsel, Dr. Kaveh entered into a Stipulation with the Pharmacy Board on October 15, 2021, wherein he reluctantly pled no contest based on an understanding that a formal hearing would likely result in more significant discipline and professional harm. Dr. Kaveh complied with all terms of the Stipulation.

Afterwards, Dr. Kaveh sought to better understand his professional obligations under the Nevada Revised Statutes, Nevada Administrative Code, and/or any applicable Board regulations. He then sought to open a dialogue and/or otherwise engage the Board of Pharmacy (through Deputy Executive Secretary and Pharmacist Yenh Long (hereinafter "Secretary Long")) and informally, the Nevada Attorney General's office to understand his obligations as a practitioner under Nevada law. Unfortunately, neither of these entities provided Dr. Kaveh with guidance in response to his inquiries. In reviewing Attorney General Opinions as far back as the year 2000, there are only two opinions dealing with the Pharmacy Board. There are no Nevada cases or Attorney General opinions related to the matters and laws raised in the Pharmacy Board.[10]

The Pharmacy Board action related to the distinction between providing sample medications to a patient, and "dispensing" medications without a dispensing registration. Dr. Kaveh is licensed to practice medicine in the state of Nevada, and holds a controlled substance registration.

The predicate for the Pharmacy Board action related to an unused, sealed medication bottle donated by another patient of Dr. Kaveh's, who no longer needed the

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[9] At the time of filing this Motion, Dr. Kaveh does not have the case file from the Board pursuant to NRS 622A.330. He reserves the right to supplement this Motion, should the case file be received prior to hearing on this matter.

[10] "According to Nevada Revised Statute (NRS) 228.150, the Attorney General is responsible for providing formal legal opinions to public officials specified within the law, including [...] the heads of state boards [...]. Only these officials can request a formal Attorney General Opinion. These opinions are intended for use by public officials in the performance of their duties, but they are issued for publication so that they can be cited for their persuasive authority in court cases and other legal proceedings. The opinions cover a broad range of topics pertaining to government operations." *See* Official Attorney General Opinions, available at *https://ag.nv.gov/Publications/Opinions/* [last accessed Feb. 28, 2022].

treatment. This expensive medication was donated by the patient in the hopes it could help someone else, after it was received through the mail from an outside pharmacy. The medication was then provided to a different patient, in good faith and at no charge, when the patient disclosed she was out of her medication and would be traveling to her second home in Fallon, NV. The medication at issue was not an opiate or controlled substance, but rather a sealed, unexpired anti-hypertensive medication (Edarbyclor) meant to temporarily fill the gap for the patient's coverage to prevent hypertensive crisis.[11]

Dr. Kaveh wanted to make sure that his patient had enough samples until they were able to fill the prescription, which is done by mail order. This patient had previously failed three other medications, with a history of left ventricular hypertrophy and diastolic dysfunction. Dr. Kaveh was worried the patient was risk of harm without the medication. Before this encounter with the Pharmacy Board, Dr. Kaveh previously believed providing this patient with that unused, sealed bottle was the same as providing a stock-bottle sample, to bridge the gap until the same medication arrived through mail order. He believed that this would be an act within his discretion.

Dr. Kaveh did not alter or change the medication or its packaging in anyway, but provided it at no-charge to a patient to prevent a potential emergency during the middle of the COVID-19 pandemic when the patient would be traveling to rural Nevada and supply chain issues frequently prevented timely acquisition of necessities, including life-saving medications.

Dr. Kaveh visually inspected the integrity of the medication packaging, along with its expiration date. Dr. Kaveh believed he was providing the unused medication as a sample, and was unaware that this act would be construed by the Pharmacy Board as re-dispensing the medication without a dispensing license. Dr. Kaveh does not maintain a stock pharmacy in his practice, and does not dispense drugs to patients. Dr. Kaveh never

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[11] Edarbyclor is a very effective but expensive brand medication that may take some time to get through the insurance companies for authorization.

intended to dispense medications to patients out of his medical office. Dr. Kaveh believed that dispensing a medication meant "selling" a medication which occurred at the pharmacy level, and not at his medical practice. Instead, Dr Kaveh prescribes medications according to patients' medical needs, and uses sample bottles for patients to try out or for their immediate use (until they can receive their prescription from the pharmacy), when necessary for excellent care.

According to NRS 639.0071, a drug sample "means any unit of a drug that is not to be sold and is used to promote the sale of the drug." There is no caselaw available that provides any aid into interpreting this statute, despite the ambiguous language. The Code of Federal Regulations defines drug sample as "a unit of a prescription drug that is not intended to be sold and is intended to promote the sale of the drug." 21 C.F.R. § 203.3(i).

Dr. Kaveh remained concerned about the absence of clarity within the Nevada statutes related to providing sample medications and the act of "dispensing," and after completing all of the terms of the Pharmacy Board Stipulation voluntarily and proactively engaged Secretary Long on February 22nd and February 23rd, 2022, seeking to define "dispensing" in relation to providing a free sample to a patient. Secretary Long advised that the Food and Drug Administration regulates the provision of drug samples, and that dispensation is a different act entirely, and is defined under Nevada law. On February 23rd, Secretary Long stated that she would be sending Dr. Kaveh an email with the statutory and/or regulatory provisions that supported the guidance she provided. The information was never sent to Dr. Kaveh, despite multiple follow up inquiries.

Dr. Kaveh (and subsequently counsel undersigned) were in contact with Deputy Attorney General Sophia Long hoping to set a meeting to discuss the confusion presented to Nevada's medical providers by the current laws in this State, hoping to get clarification given the absence of interpreting caselaw; however, she declined. While it is recognized that NRS 228.150 imposes a duty upon the Attorney General to provide formal legal opinions only upon the request of specified individuals, including the heads of state boards, Dr. Kaveh has been directly impacted by the confusion within the statutes.

NRS 639.0065 defines "dispense," which provides in relevant part:

> "Dispense" means to deliver a [...] dangerous drug to an ultimate user, patient [...] by or pursuant to the lawful order of a practitioner, including the prescribing by a practitioner, administering, packaging, labeling or compounding necessary to prepare the substance for that delivery.

NRS 639.0065. For the purposes of section 503(d) of the Federal Food, Drug, and Cosmetic Act, distribute (of which dispense is a synonym) does not include the provision of a drug sample to a patient by a licensed practitioner. In fact, 21 U.S.C.S. § 353 provides as follows, in relevant part:

> (d) Distribution of drug samples.
> (1) Except as provided in paragraphs (2) and (3), no person may distribute any drug sample. For purposes of this subsection, the term "distribute" does not include the providing of a drug sample to a patient by a—
> (A) practitioner licensed to prescribe such drug, [...]

21 U.S.C.S. § 353(d). Without *any* guidance available from the Pharmacy Board, Medical Board, and Attorney General's Office to the contrary, the above statute reflects that the provision of samples is not an act of dispensing for which a dispensing registration would be required.

In short, while Dr. Kaveh did not know that his conduct would be considered to be improper by the Pharmacy Board at the time he provided the sample to his patient, an interpretation of the applicable Nevada laws leads to a reasonable interpretation that providing a drug sample to a patient is not an act of dispensing. The Nevada statutes as written, are not sufficiently clear to provide doctors in this State adequate notice of their responsibilities in this regard.[12]

For example, in *US v. Long Grove*, the issue was not that unused medication of a deceased patient was returned to the pharmacy and later redistributed to other patients, the issue was whether Medicaid was charged twice for the same medication. *See United*

[12] Deputy General Counsel for the Medical Board is unable to point to any continuing education resources that advise on any of these nuances, despite specific and direct request.

States ex rel. Dolan v. Long Grove Manor, Inc., 2019 U.S. Dist. LEXIS 110579, at *9 (N.D. Ill. July 2, 2019). In finding that there was no actionable misconduct, the Court found:

> Another bill submitted to the IDPA for the same pills is required; otherwise, it could be that the pills from the Voucher were later returned, distributed to a non-Medicaid patient, and billed to that patient's insurance company. In that case, Crews would have no case under the FCA. For that matter, simply by chance, all recycled drugs could have wound up in the hands of non-Medicaid patients. Statistically unlikely, to be sure, but possible. In fact, Crews introduces no evidence that that is not what happened. The burden is on Crews to show the link between two vouchers that represent two separate charges for the same pill, a burden Crews fails to carry.

[emphasis added]. *Id.*, at 2019 U.S. Dist. LEXIS 110579, at *10-11. The act of re-dispensing (and possibly charging a second time for the same drug) the unused medication of a deceased patient to another patient was not problematic, except where Medicaid had already been charged and paid for that drug once.

Dr. Kaveh did not charge the patient when he provided the sealed, unused medication as a drug sample to provide coverage until the patient's medication was received from the mail order pharmacy.[13]

The Pharmacy Board allegations against Dr. Kaveh were that he dispensed a dangerous drug to a patient without a valid dispensing practitioner registration and dispensed unused medication and thus misbranded, mislabeled and potentially adulterated drug.

Dr. Kaveh learned through discussions with his professional peers, that there exists a general belief that providing unused, sealed medications returned by a patient and subsequently provided to another patient free of charge in an emergent situation as a

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[13] While there are no Nevada statutory provisions that deal with this issue directly, there are several statutory provisions that envision the provision of returned, unused medications being re-distributed to different patients. *See* NRS 639.2675 (reusing returned medication of one incarcerated offender for another incarcerated offender), NRS 639.2676 (non-profit pharmacy may reissue returned drug to fill other prescriptions in same pharmacy free of charge provided certain circumstances met), NRS 433.801 (regarding mental health care), NRS 435.700 (regarding public or private facility offering services for persons with intellectual disabilities or persons with developmental disabilities), NRS 449.2485 (regarding facilities for skilled nursing or a facility for intermediate care), etc.

sample, does not constitute an act of dispensation in violation of Nevada law. Medical doctors in this State do not have enough notice of the laws they are expected to follow with regard to providing sample medications to patients, and despite Dr. Kaveh's best efforts to seek a clear understanding from the Board of Pharmacy itself and the Attorney General's Office, there remains ambiguity in the law that no one is able to definitively explain. Dr. Kaveh has over twenty-five years of medical experience in Nevada, and takes his patient care responsibilities extremely serious.

The subject, sealed medication was in the manufacturer's packaging, and was not misbranded and/or adulterated. With this particular medication, the sample bottles provided by the manufacturer bear the same exact information and label, with the exception of the patient's name being printed on the bottle mailed to the patient.

On November 10, 2021, Dr. Kaveh notified the Medical Board of his Stipulation with the Pharmacy Board.

On January 10, 2022, the Medical Board served Dr. Kaveh with a request for information regarding the Pharmacy Board Stipulation.

On March 7, 2022, Dr. Kaveh submitted a response to the Board's Request for Information explaining everything set forth above in this subsection.

On May 8, 2023, the Medical Board filed the instant Complaint against Dr. Kaveh.

C. MEDICAL BOARD'S DISPARATE TREATMENT AND DELAY REGARDING DR. KAVEH

Dr. Kaveh's counsel performed a search of publicly available records to identify whether the Medical Board has filed similar complaints for "reciprocal discipline" and the attendant timeline of those cases, locating *only* four prior complaints citing "NRS 630.306(1)(b)(3)" as *a* basis for the action all of which have separate statutory counts charged against the medical doctor. *See* **Exhibits B-E**. There are no publicly available complaints citing *only* NRS 630.306(1)(b)(3) as the *sole* basis for discipline.

BOP Action	BME Initiated Action	Abbrev. Factual Allegations	NRS violations alleged
09/05/18	10/17/18	Case No. 18-8756-1: Respondent used the Prescription Monitoring Program to run an electronic query on 1 October shooter Stephen Paddock on 10/2/17 using multiple different search parameters. Paddock was never Respondent's patient. Respondent provided the resultant information to the Las Vegas Review Journal, and it was then published in an article. The matter proceeded to a full disciplinary hearing before the BOP. The Pharmacy Board issued a stayed revocation of Respondent's certificates of registration with the BOP, and instead placed Respondent on a conditional one year probation. The BME Complaint followed **42 days later**, setting forth ten (10) separate counts.	NRS 630.306(1)(b)(3) NRS 630.301(9) NRS 630.306(1)(r) NRS 630.306(1)(b)(3) NRS 630.301(1)(b)(2) NRS 630.3062(1)(a) NRS 630.306(1)(p) NRS 630.306(1)(c) NRS 630.306(1)(c) NRS 630.3062(1)(a)
03/06/19	03/21/19	Case No. 19-38366-1: Respondent was the proprietor of an IV hydration company that provided various elective therapies and concierge medical services. It is alleged that Respondent improperly permitted staff to prescribe, order, and possess an inventory of dangerous drugs when he was not present on site; aided and abetted the unauthorized practice of medicine; and, purchased dangerous compounded drugs from a pharmacy not licensed with the Pharmacy Board. The matter was resolved by way of Stipulation and Order with the BOP. Respondent was given a public reprimand and placed on 12 months probation by the BOP. The BME Complaint followed **15 days later**, setting forth five (5) separate counts.	NRS 630.306(1)(b)(3) NRS 630.306(1)(c) NRS 630.306(1)(r) NRS 630.305(1)(e) NRS 630.3062(1)(a)
10/10/18	01/09/19	Case No. 19-33320-1: Respondent was alleged to have aided and abetted the unlawful prescribing of controlled substances, dangerous drugs, including to patients with whom she did not have a bona fide doctor-patient relationship, failing to segregate expired medications from unexpired medications, failure to keep and produce records related to hydroquinone tretinoin and/or juvederm syringes dispensed, and allowing other practitioners to treat her patients and bill Medicaid and/or other commercial health insurance using her NPI (thus representing she performed those services	NRS 630.306(1)(b)(3) NRS 630.306(1)(c) NRS 630.305(1)(d) NRS 630.3062(1)(a)

BOP Action	BME Initiated Action	Abbrev. Factual Allegations	NRS violations alleged
		personally). The matter was resolved by way of Stipulation and Order with the BOP. The BME Complaint followed **91 days later**, setting forth four (4) separate counts.	
06/05/20	09/08/20	Case No. 20-18832-1: Respondent is alleged to have placed her Nevada medical license in inactive status in May 2009, where it remained at the time of the allegations. The BOP send Respondent a cease and desist letter on 6/5/20 to stop prescribing controlled substances to Nevada patients. On 6/14/20, Respondent surrendered her DEA Certificate of Registration which had allowed her to order, possess, dispense, administer, prescribe, or engage in any other activities with controlled substances. The BME alleged that Respondent renewed her licensed to prescribe controlled substances (each renewal period since 2009), therein representing to the BOP that she had an active license issued by the BME. Respondent was alleged to have prescribed controlled substances to four separate Nevada patients. The BME Complaint followed **95 days later**, setting forth six (6) separate counts.	NRS 630.306(1)(b)(3) NRS 630.304(1) NRS 630.306(1)(c) NRS 630.306(1)(c) NRS 630.306(1)(c) NRS 630.306(1)(c)

See **Exhibits B-E**.

There has been no explanation for why Dr. Kaveh is being treated differently that other providers. There have been no straight "reciprocal discipline" complaints filed against any medical doctor pursuant to NRS 630.306(1)(b)(3). *All* of those cases were resolved either by way of non-punitive admonishment *or* were otherwise not publicly pursued by the Medical Board. All publicly available complaints citing NRS 630.306(1)(b)(3) were coupled with separate and distinct bases for Medical Board discipline. *See* **Exhibits B-E**. All of those cases resulted from Investigative Committee meetings with three (3) board members present. *Id.*

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There can be no doubt that Dr. Kaveh has been treated differently, and because the proceedings of the Investigative Committee are confidential, Dr. Kaveh is unable to prove the arbitrary and capricious conduct as fully as he would if he had access to the details of the Committee meetings. However, he can prove without a doubt, that he is the first medical doctor to have a complaint based solely upon NRS 630.306(1)(b)(3). He can also prove without a doubt that the factual circumstances of his alleged violations of NRS 630.306(1)(b)(3) vastly differ from those of the other four medical doctors against whom such violations were alleged and coupled with additional NRS violations and charges. The Medical Board has chosen to initiate this process, without having ever received a patient care complaint against Dr. Kaveh.

IV. LEGAL ARGUMENT AND ANALYSIS

As a preliminary matter, the Complaint does not meet the procedural pre-requisites for initiating discipline against Dr. Kaveh and deprived him of due process by failing to ensure him that the proceedings were thoughtfully and meaningfully entertained by the required, mandatory minimum composition of the Investigative Committee pursuant to NRS 630.311(1). This failure also deprived Dr. Kaveh from fully developing the breadth of his laches defenses. The Medical Board's Complaint against Dr. Kaveh is void ab initio for failure to comply with filing pre-requisites aimed to ensure fairness and due process in the conduct of these proceedings.

A. THE MEDICAL BOARD FAILED TO FOLLOW NRS 630.311(1) RENDERING THE COMPLAINT AGAINST DR. KAVEH VOID

The Medical Board must follow Nevada law and its own procedures to ensure due process when seeking to impose consequences on protected liberty interests of its members. This did not occur in this instance, and Dr. Kaveh must not bear the burden of the Medical Board's errors. Dr. Kaveh is foreclosed from independently verifying the veracity of the secret and confidential proceedings from which these disciplinary proceedings were spawned. In fact, there is no record of this two (2) person panel convened as the Investigative Committee. In exchange for this forced blind trust in the

Medical Board to conduct its secret proceedings to determine whether a doctor will be publicly disciplined, medical doctors must be assured that even an appearance of impropriety in that process will result in wholesale dismissal. This is particularly critical in a case where inexcusable delay is present, and the justification provided for the inability to impose a non-punitive admonishment was based solely on the fact that the invalid two (2) person Investigative Committee authorized the initiation of disciplinary proceedings. The standard of care was not met by the Investigative Committee. It lacked the authority to convene and authorize disciplinary proceedings with only two (2) members present.

B. THE MEDICAL BOARD IS BARRED FROM SEEKING TO IMPOSE RECIPROCAL DISCIPLINE UNDER THE DOCTRINE OF LACHES

In addition to failing to comply with Nevada law as procedural pre-requisite to bringing this Complaint against Dr. Kaveh (rendering the Complaint void), the Medical Board has subjected Dr. Kaveh to disparate treatment and prejudicial delay. The Medical Board has never filed a formal complaint seeking public discipline against a medical doctor, *solely* alleging violation of NRS 630.306(1)(b)(3). This means Dr. Kaveh has been singled out where all other alleged offenders were not subject to any public disciplinary proceedings. All other instances alleging violations of NRS 630.306(1)(b)(3), were accompanied by multiple other separate counts alleging additional violations, *and* were **filed within fifteen (15) to ninety-five (95) days** of the Pharmacy Board's formal hearing and/or the date any stipulated settlement agreement was entered. *See* **Exhibits B-E**. The Medical Board did not initiate formal proceedings against Dr. Kaveh for more than **eighteen (18) months** after he entered into the Stipulation with the Pharmacy Board.

This prejudicial delay has and will continue to harm Dr. Kaveh if the Medical Board permits this improper conduct to stand. Any belated and untimely reporting to the National Practitioner Data Bank ("NPDB") will harm Dr. Kaveh reputationally and financially in the following ways:

1) As the Medical Board is aware, these claims are often defended under an endorsement or rider to the medical doctor's professional liability insurance policy, with

burning limits.

2) Dr. Kaveh has no input or control in the manner in which the Medical Board (or any licensing board) reports professional discipline to the NPDB (including timing, content, etc.).

3) Each time a report is made to the NPDB, a cascade of reporting is triggered to entities where Dr. Kaveh has privileges, other jurisdictions where he is licensed, to explain the report and the factual predicate and defend his standing with those entities.

4) The Medical Board will report this matter to the NPDB in an unnecessarily inflammatory manner that appears to the reader that an additional violation has occurred (when this is purportedly a "reciprocal discipline"), forcing Dr. Kaveh to engage in defensive and expensive letter writing campaigns and appeals to each entity.

5) Dr. Kaveh has already exhausted the majority of coverage available for this incident due to the inflammatory language used in the Pharmacy Board's reporting to the NPDB, and being forced to engage the Pharmacy Board, its counsel, its Board members, and the Nevada Attorney General's Office to attempt to clarify Nevada statutes and his responsibilities thereunder; and now, in his dealings with the Medical Board related to an improperly founded Complaint that was untimely filed without the mandatory Investigative Committee support.

Not only is Dr. Kaveh the first medical doctor to be publicly charged with a single violation of NRS 630.306(1)(b)(3) under the guise of "reciprocal discipline," those charges came more than **five-to-thirty times later than any other provider** whose charged violations included NRS 630.306(1)(b)(3) (in addition to multiple other charges). There is no excuse for the delay where the Medical Board contends that the Pharmacy Board Stipulation itself is the stated basis for, and the only evidence needed for, discipline by the Medical Board.

The integrity of the Medical Board is called into question where it appears that they have deviated from their statutory requirements and customs in singling out a medical doctor, like they have done to Dr. Kaveh. There is no evidence that this matter was given

full and fair consideration by a properly convened Investigative Committee, in fact there is plain evidence to the contrary that only two (2) members of the Investigative Committee reviewed this matter, and there are no records of such on the Summary of Investigative Committee page of the Medical Board's website. **(Exhibit F)**. Dr. Kaveh was told that non-punitive admonishment pursuant to NRS 630.299 was unavailable to him because the Investigative Committee already authorized the initiation of disciplinary proceedings. These proceedings were initiated improperly and are void. Dr. Kaveh was denied full and proper consideration pursuant to NRS 630.299, because an improperly and insufficiently formed Investigative Committee with less than the required members purportedly authorized the filing of the Complaint. Because the Investigative Committee proceedings are confidential, Dr. Kaveh cannot discover whether non-punitive admonishment was considered, but can prove that it was not considered by the requisite number of members.

When discipline is initiated, the initiating entity must ensure fairness and integrity in those proceedings. When there are secret meetings, convened without the appropriate numbers, seeking to impose discipline in a manner inconsistent with discipline imposed on other medical doctors, there is a due process violation. When that discipline comes woefully later than others even remotely similarly situated, there becomes a laches bar. Given that the Complaint is void and cannot proceed, Dr. Kaveh respectfully requests that the Medical Board be precluded from later re-filing as the laches defense asserted herein only becomes stronger with the additional passage of time. The American Law Reports examined laches in the administrative setting and offered some helpful guidance:

> The court noted that the statute governing conduct of the medical profession did not contain a limitation on the age of acts subject to disciplinary proceedings, but held that laches could be asserted as a defense in an administrative disciplinary action involving a professional license. The court analyzed the board hearing according to a two-part test to determine if the proceedings satisfied the due process requirement of the state constitution.
>
> First, the court found that the doctor had a legally protected property right in his license to practice medicine because the license, once granted, was an individual entitlement granted in state law which could not be removed except for cause, and as a result of the property right the doctor was entitled to procedural due process before the board.

> In applying the second part of the test, the court examined three factors to determine whether the board's procedures provided the doctor with due process by implementing sufficient procedural safeguards.
>
> First, the court found that the private interest, the doctor's license to practice his profession, affected by governmental action was substantial, noting that what was at stake in the disciplinary proceeding was the doctor's license to practice his livelihood and profession.
>
> Second, the court held that the risk of an erroneous deprivation of that interest was great and that the risk would be significantly decreased by the application of a laches-type doctrine. [...]
>
> The third factor considered by the court was the government's interest, which the court found to be to protect the public interest.
>
> Because of the importance of the government's function in disciplinary actions, the court observed, laches could not be imputed merely by the passage of time, but required that the doctor demonstrate the prejudice caused by the delay, show that the delay affected his ability to defend the charges, and prove that the delay was caused not by lack of the complainant's awareness of the nature of the conduct, but by the complainant sleeping on his rights.
>
> The court found that the circumstances surrounding this action indicated that the doctor met those requirements, and therefore the doctrine of laches applied. Furthermore, the court commented, fundamental fairness was a primary consideration under due process, and it was fundamentally unfair to make a doctor defend a 9-year-old complaint when the complaint was not delayed by fraud or the lack of ability to discover the misconduct.

See Applicability of statute of limitations or doctrine of laches to proceeding to revoke or suspend license to practice medicine, 51 A.L.R.4th 1147, 10; *see also In re Davis*, 113 Nev. 1204, 1213-15, 946 P.2d 1033, 1039-40 (1997)("Although the doctrine of laches could be indiscriminately applied in the absence of an express limitations period, the Commission took an appropriately practical approach in considering the date of the alleged misconduct and whether appellant had cured the misconduct. The Commission did not consider remote acts unless they were a part of a recurring pattern of conduct. We are convinced that this approach addresses and resolves any fundamental due process concerns.").

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1. Dr. Kaveh Has A Legally Protected Property Right In His License To Practice Medicine

This is not in dispute. Dr. Kaveh is entitled to procedural and substantive due process before the Medical Board. He has been denied due process in these proceedings by the impact of the prejudicial delay and the Medical Board's failure to ensure that a valid Investigative Committee was formed to review this case. The Medical Board initiated this action in the absence of a patient care complaint, and solely on the basis of the Pharmacy Board settlement. The Medical Board is taking public action against Dr. Kaveh, that has never been taken against any other medical doctor (per public record verification).

2. Dr. Kaveh Has Been Denied Due Process By The Medical Board's Failure To Implement Procedural Safeguards.

Dr. Kaveh's privacy interest in practicing medicine without prejudicial and financially harmful impediments is substantial, and at direct stake in this action. The risk of an erroneous deprivation of this interest through untimely, misleading, and inflammatory reporting to the NPDB and the resultant fallout, can be avoided by applying the laches defense. Dr. Kaveh will not be forced to defend the underlying care *and* at the same time attempt to explain away the significant delay by the Medical Board in seeking to discipline Dr. Kaveh. Finally with regard to the government's interest in protecting the public as the basis for initiating these disciplinary proceedings, there is no public policy furthered by these proceedings. The Medical Board saw no need to protect the public from Dr. Kaveh during the **five hundred forty-four (544 days)** that it allowed to pass before initiating this "reciprocal" discipline. Nor did the Medical Board see the need to protect the public from any other medical doctor in this State on the sole basis of NRS 630.306(1)(b)(3), hence the absence of any public complaints filed only on that basis. It is unclear why Dr. Kaveh is being singled out, and speculation only inflames and multiplies these proceedings at this point, but should this matter proceed those answers will be sought using all legal mechanisms available. There was no patient complaint related to this matter. There is no need to protect the public from Dr. Kaveh, he is an excellent and attentive medical doctor

that puts his patient's best interests and needs first. The Medical Board initiated this case on its own accord, outside the stated procedure provided to the public on its own website. **(Exhibit A)**. Dismissal is required pursuant to NRS 630.311(1) and NRCP 12(c), but necessitated in equity and to promoted fairness under the doctrine of laches which should operate as a bar to re-filing this action.

V. CONCLUSION

It is not "rules for thee, but not for me" or "do as I say, but not as I do." The United States is intended to be a place where certain due process rights are guaranteed. The Medical Board cannot proceed when it has violated Dr. Kaveh's rights to due process, by failing to timely follow the proper pre-requisite to proceeding with public discipline. The Medical Board cannot produce evidence that this matter was properly before a validly formed Investigative Committee. The language in the statute is mandatory. Judgment on the pleadings is appropriate.

It would be inequitable for the Medical Board to punish Dr. Kaveh for violating unclear statutory provisions when the Medical Board itself has failed to comply with statutory provisions governing its conduct. Therefore, Dr. Kaveh respectfully requests that this case be dismissed in its entirety.

September 5, 2023

LEWIS BRISBOIS BISGAARD & SMITH LLP

By /s/ Melanie L. Thomas

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CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of September, 2023, a true and correct copy of **Respondent Sassan Kaveh, M.D.'s Motion to Dismiss** was sent via electronic mail to the following:

William P. Shogren
Deputy General Counsel
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Nancy Moss Ghusn, Esq.
Hearing Officer
NMG416@gmail.com

By /s/ Melanie L. Thomas

An Employee of
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EXHIBIT A

The Complaint Process

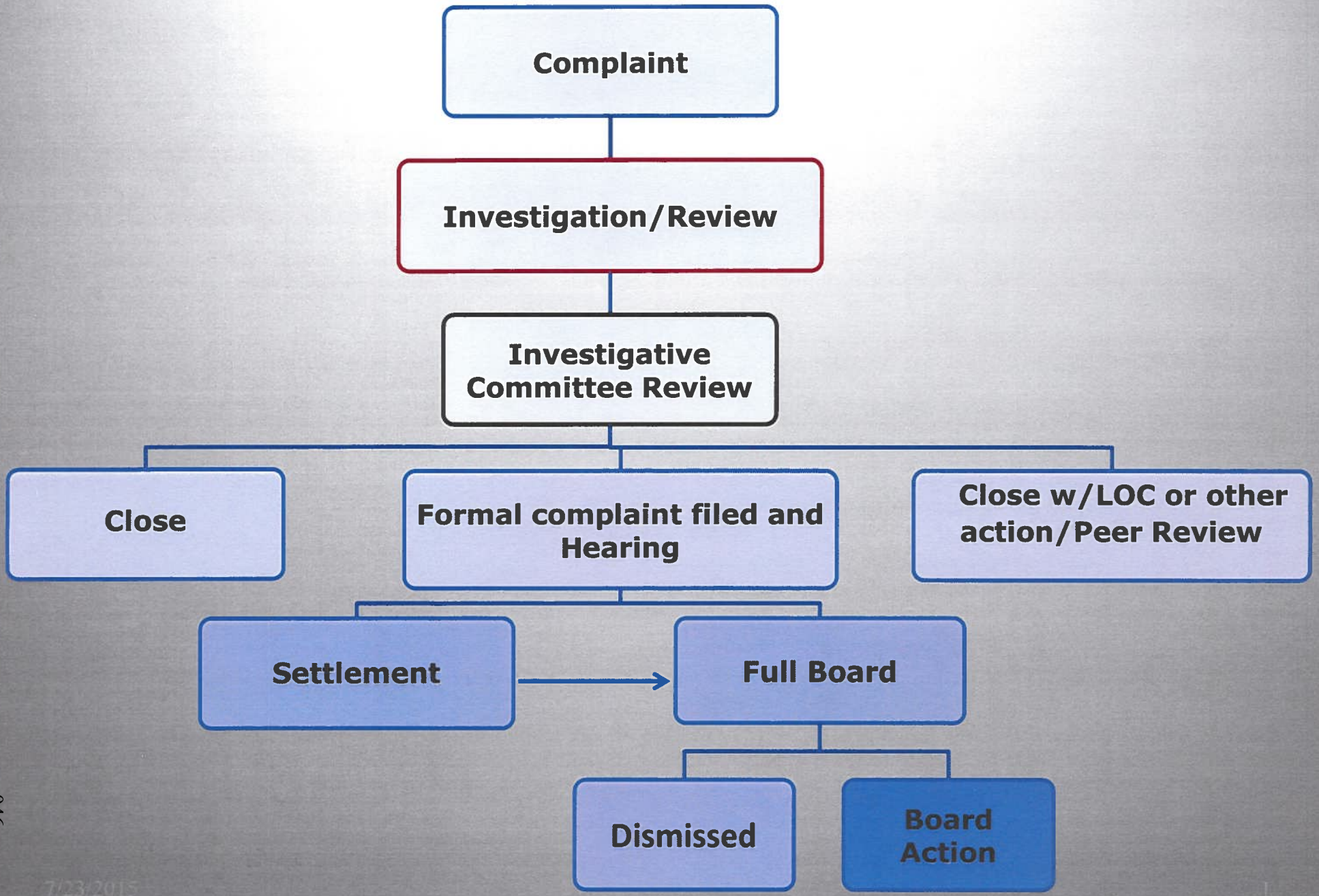


EXHIBIT B

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BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against IVAN LEE GOLDSMITH, M.D., Respondent.	**Case No. 18-8756-1**

FILED
OCT 17 2018
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

COMPLAINT

The Investigative Committee[1] (IC) of the Nevada State Board of Medical Examiners (Board) hereby issues this formal Complaint (Complaint) against Ivan Lee Goldsmith, M.D. (Respondent), a physician licensed in Nevada. After investigating this matter, the IC has a reasonable basis to believe that Respondent has violated provisions of Nevada Revised Statutes (NRS) Chapter 630 and Nevada Administrative Code (NAC) Chapter 630 (collectively, the Medical Practice Act). The IC alleges the following facts:

A. Respondent's Violations of Nevada Prescribing Laws, and the Nevada State Board of Pharmacy's Disciplinary Action.

1. Respondent is a physician licensed to practice medicine in the State of Nevada (License No. 6116). He has been continuously licensed by the Board since August 25, 1990.

2. Respondent held both a Controlled Substance Registration, Certificate No. CS20816, and a Practitioner Dispensing Registration, Certificate No. PD00413, issued by the Nevada State Board of Pharmacy (Pharmacy Board) at the time of the events set forth herein in this Section A.

3. On Wednesday, September 5, 2018, in Reno, Nevada, the Pharmacy Board held a formal disciplinary hearing in Pharmacy Board Case No. 17-101-CS-S, pertaining to allegations by the Pharmacy Board against Respondent. Pursuant to the final disciplinary order of the

[1] The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board), at the time this formal Complaint was authorized for filing, was composed of Board members Wayne Hardwick, M.D., Chairman, Mr. M. Neil Duxbury, and Aury Nagy, M.D.

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Pharmacy Board, dated September 13, 2018 (Pharmacy Board Order), the Pharmacy Board made formal findings of fact, *inter alia*, as follows:

a. On December 9, 2013, the Pharmacy Board granted Respondent an account for Internet access to the Nevada Prescription Monitoring Program (PMP) for purposes authorized under federal and state law.

b. Before receiving access, Respondent signed a Practitioner Certification Statement on December 6, 2013, stating that he understood and agreed under penalty of perjury that he was responsible for all patient information transmitted from his account, that he would treat PMP information as confidential, that he would protect any PMP information in his possession or control in accordance with federal and state laws governing health care information, and that he would safeguard his password and not share his login credentials with any other person.

c. Stephen Paddock (Paddock) was the perpetrator of the October 1, 2017, Las Vegas mass shooting, and committed suicide immediately after the incident, sometime before midnight.

d. On or about October 2, 2017, Respondent verified through his office electronic medical records system (EMR) that Paddock was never his patient.

e. From October 2, 2017, at 9:25 a.m., to October 3, 2017, at 2:20 p.m., Respondent's PMP account was used to query the PMP database five separate times using different search parameters for each query, to access Paddock's confidential patient information, and to obtain patient utilization reports detailing Paddock's prescription-controlled substance utilization history.

f. The fourth search, conducted on October 3, 2017, at 10:18 a.m., yielded specific prescription information regarding two prescriptions for Paddock filled at Evergreen Drugs in Henderson, Nevada in 2016, and at a Walgreens pharmacy in Reno, Nevada, in 2017.

g. On October 3, 2017 at 9:00 p.m., the Las Vegas Review-Journal published an article written by reporter Paul Harasim. That article purported to include

Paddock's confidential patient information, including information about the two prescriptions, which the reporter attributed to and obtained from the PMP.

h. The Las Vegas Review-Journal updated the article on October 4, 2017, at 10:00 a.m., to reference specific prescription data and prescriber information related to Paddock from June 7, 2016, and June 21, 2017.

i. Respondent's PMP account is the only possible source for the details in the Las Vegas Review-Journal article that are attributed to the PMP, because only the fourth search from his PMP account corresponds to the dates and time frames specified in the article.

j. On or about November 8, 2017, Respondent, through his counsel, Jacob L. Hafter, Esq., filed an Amended Declaration with the Eighth Judicial District Court of Clark County, Nevada, in Case No. A-17-762877-W, in which Respondent admits to directing his office staff to use his PMP account to query Paddock's confidential patient information and to obtain patient utilization reports on October 2, 2017, and again on October 3, 2017.

k. In his Amended Declaration, Respondent also admits to routinely allowing his staff to use his PMP account to query the PMP on his behalf.

4. Pursuant to the Pharmacy Board Order, the Pharmacy Board made conclusions of law, *inter alia*, as follows:

a. By accessing or directing his staff to access Paddock's confidential data in the PMP database, when Paddock was deceased and never his patient, and by obtaining Paddock's patient utilization report, Respondent performed his duties as the holder of a Nevada Controlled Substance Registration in an incompetent, unskillful or negligent manner and engaged in unprofessional conduct or conduct contrary to the public interest pursuant to NAC 639.945(l)(i). Respondent's Controlled Substance Registration, Certificate of Registration No. CS20816, and Practitioner Dispensing Registration, Certificate No. PD00413, are therefore subject to discipline pursuant to NRS 639.210(4) and NRS 639.255.

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b. By accessing or directing his staff to access Paddock's confidential data in the PMP database, when Paddock was deceased and never his patient, and by obtaining Paddock's patient utilization report, Respondent violated the HIPAA Privacy Rule. His Controlled Substance Registration, Certificate of Registration No. CS20816, and Practitioner Dispensing Registration, Certificate No. PD00413, are therefore subject to discipline pursuant to NRS 639.210(11) and NRS 639.255.

c. By accessing or directing his staff to access Paddock's confidential data in the PMP database, when Paddock was deceased and never his patient, and by obtaining Paddock's patient utilization report, Respondent violated, attempted to violate, assisted or abetted in the violation of, or conspired to violate NRS 453.164(7) and/or the HIPAA Privacy Rule. His Controlled Substance Registration, Certificate of Registration No. CS20816, and Practitioner Dispensing Registration, Certificate No. PD00413, are therefore subject to discipline pursuant to NRS 639.210(12) and NRS 639.255.

d. By disclosing, or allowing to be disclosed, to the Las Vegas Review-Journal and/or writer Paul Harasim Paddock's confidential PMP data and patient utilization report, which were accessed only by Respondent's PMP account on October 2 and October 3, 2017, Respondent violated state and federal law, including the HIPAA Privacy Rule and NRS 639.164(7). His Controlled Substance Registration, Certificate of Registration No. CS20816, and Practitioner Dispensing Registration, Certificate No. PD00413, are therefore subject to discipline pursuant to NRS 639.210(4), (11) and (12) as well as NRS 639.255.

e. By accessing or directing his staff to access Paddock's confidential data in the PMP database, when Paddock was deceased and never his patient, and by obtaining Paddock's patient utilization report, Respondent committed an act that would render his Nevada Controlled Substance Registration inconsistent with the public interest pursuant to NRS 453.231, and is subject to discipline pursuant to NRS 453.236(l)(d) and NRS 453.241(1).

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5. Based on the foregoing, pursuant to the Pharmacy Board Order, the Pharmacy Board ordered, *inter alia*, that Respondent's Certificates of Registration Nos. CS20816 and PD00413, be revoked, with the revocation stayed, and Respondent's Certificates of Registration Nos. CS20816 and PD00413 were placed on probation for one (1) year subject to the following conditions. Respondent shall:

a. Implement and provide to Board Staff internal controls and procedures within thirty (30) days of the effective date of this Order to ensure that his staff does not use his PMP account to query the PMP on his behalf except as authorized by law;

b. Pay a fine of Two Thousand Dollars ($2,000.00) for each of the five (5) violations of law, for a total of Ten Thousand Dollars ($10,000.00). Payment shall be made by cashier's check or certified check or money order made payable to "State of Nevada, Office of the Treasurer" to be received by the Board's Reno office located at 431 W. Plumb Lane, Reno, NV 89509, within thirty (30) days of the effective date of this Order; and

c. Pay Sixteen Thousand Dollars ($16,000.00) to partially reimburse the Board for reasonable attorney's fees and costs incurred in investigating and prosecuting this matter. Payment shall be made by cashier's check, certified check or money order made payable to the "Nevada State Board of Pharmacy" to be received by the Board's Reno office located at 431 W. Plumb Lane, Reno, NV 89509, within thirty (30) days of the effective date of this Order.

COUNT I

NRS 630.306(1)(b)(3) (Engaging in Conduct That Violated Pharmacy Board Regulations)

6. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

7. Pursuant to NRS 630.346(4), in any disciplinary hearing, a certified copy of the record of a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation, limitation, modification, denial or surrender of a license to practice medicine is conclusive evidence of its occurrence.

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8. 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.

9. By the misconduct set forth in the Pharmacy Board Order, which order is conclusive evidence of its occurrence, Respondent engaged in conduct that violates regulations adopted by the Pharmacy Board, specifically including but not limited to NAC 639.945(1)(i).

10. 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 630.301(9) (Disreputable Conduct)

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

12. Pursuant to NRS 630.346(4), in any disciplinary hearing, a certified copy of the record of a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation, limitation, modification, denial or surrender of a license to practice medicine is conclusive evidence of its occurrence.

13. Conduct that brings the medical profession into disrepute is grounds for discipline pursuant to NRS 630.301(9), 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.

14. By the misconduct set forth in the Pharmacy Board Order, which order is conclusive evidence of its occurrence, Respondent engaged in conduct that brings the medical profession into disrepute.

15. 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 Adequately Supervise a Medical Assistant)

16. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

17. NRS 630.306(1)(r) provides that a failure to adequately supervise a medical

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assistant pursuant to the regulations of the Board is an act that constitutes grounds for initiating disciplinary action.

18. Pursuant to NAC 630.830, a delegating practitioner retains responsibility for the safety and performance of each task which is delegated to a medical assistant.

19. By the misconduct set forth in the Pharmacy Board Order, which order is conclusive evidence of its occurrence, Respondent failed to adequately supervise his medical assistants in their performance of medical tasks.

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

B. Respondent's Dispensing of Controlled Substances to Himself.

21. Pursuant to NRS 453.256(7), an individual practitioner may not dispense a substance included in schedule II, III or IV for the practitioner's own personal use except in a medical emergency.

22. Pursuant to NAC 453.010(2), a medical "emergency" within the meaning of NRS 453.256 and Nevada State Board of Pharmacy regulations means a situation in which a prescribing practitioner determines that:

> (a) Immediate administration of the controlled substance is necessary for the proper treatment of the patient;
> (b) No appropriate alternative treatment is available, including administration of a drug which is not a controlled substance under schedule II of the Uniform Controlled Substances Act; and
> (c) It is not reasonably possible for the prescribing practitioner to provide a written prescription to be presented to the person dispensing the substance before he or she dispenses it.

23. Respondent prescribed and dispensed Phentermine 37.5 mg tablets to himself for his own personal, non-emergency use on December 1, 2014, March 27, 2015, July 27, 2015, and October 19, 2015.

24. Phentermine is a Schedule IV controlled substance pursuant to NAC 453.540(5).

25. Respondent prescribed and dispensed Phendimetrazine 35 mg tablets to himself for his own personal, non-emergency use on on June 29, 2015.

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26. Phendimetrazine is a Schedule III controlled substance pursuant to NAC 453.530(2)(e).

COUNT IV

NRS 630.306(1)(b)(3) (Engaging in Conduct That Violated Pharmacy Board Regulations)

27. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

28. 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.

29. By the conduct described in this Section B, Respondent engaged in conduct that violates regulations adopted by the Pharmacy Board, specifically including but not limited to NAC 453.010(2).

30. 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 V

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

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

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

33. The Board adopted by reference the *Dietary Guidelines for Americans, 2010*, 7th edition, published jointly by the United States Department of Health and Human Services and the Department of Agriculture pursuant to 7 U.S.C. § 5341 (Dietary Guidelines).

34. NAC 630.205 sets forth the professional standards for the prescription of appetite suppressants, which specifially incorporates the Dietary Guidelines.

35. Respondent prescribed appetite suppresants to himself in a manner that violated the professional standards for the prescription of appetite suppressants, and the Dietary Guidelines.

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

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Count VI

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

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

38. 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 initiating discipline against a licensee.

39. Respondent failed to maintain complete medical records relating to the diagnosis, treatment and care of himself.

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

COUNT VII

NRS 630.306(1)(p) (Unsafe or Unprofessional Conduct)

41. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

42. Engaging in any act that is unsafe or unprofessional conduct in accordance with regulations adopted by the Board is grounds for disciplinary action against a licensee pursuant to NRS 630.306(1)(p).

43. As demonstrated by, but not limited to, the above-outlined facts, Respondent wrote prescriptions and dispensed appetite suppressants to himself in a manner that violated the professional standards for the prescription of appetite suppressants, and the Dietary Guidelines.

44. Respondent's conduct was unsafe and unprofessional.

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

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C. Respondent's Violation of, and Failure to Ensure Compliance With, Nevada Pharmacy Laws.

46. Respondent's physician assistants, Lindsay Hoffman, PA-C, and Adam Luckette, PA-C, dispensed controlled substances and dangerous drugs to patients of Respondent, from Respondent's store of medications, while he was out of the country.

47. Respondent's physician assistants, Lindsay Hoffman, PA-C, and Adam Luckette, PA-C, prescribed medication to patients of Respondent, without a bona fide therapeutic relationship with said patients.

48. No person may prescribe and dispense controlled substances in Nevada except as authorized by law. NRS 453.226; NRS 453.375(1); NRS 453.377; NRS 639.235(1); NAC 639.742(1), (3) and (4); 21 CFR § 1301.11; 21 CFR § 1306.03.

49. NAC 639.742 states in relevant part:

> 1. A practitioner who wishes to dispense controlled substances or dangerous drugs must apply to the Board on an application provided by the Board for a certificate of registration to dispense controlled substances or dangerous drugs.
>
> . . .
>
> 3. Except as otherwise provided in NRS 639.23277 and NAC 639.395, the dispensing practitioner and, if applicable, the owner or owners of the facility, shall ensure that:
>
> (a) All drugs are ordered by the dispensing practitioner;
>
> (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;
>
> (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;
>
> . . .
>
> 4. With regard to the filling and dispensing of a prescription at a facility, only the dispensing practitioner or a dispensing technician may:
>
> (a) Enter the room or cabinet in which drugs are stored;
>
> (b) Remove drugs from stock;
>
> (c) Count, pour or reconstitute drugs;

(d) Place drugs into containers;
(e) Produce and affix appropriate labels to containers that contain or will contain drugs;
(f) Fill containers for later use in dispensing drugs; or
(g) Package or repackage drugs.

50. 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:

(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.

(o) Prescribing a drug as a prescribing practitioner to a patient with whom the prescribing practitioner does not have a bona fide therapeutic relationship.

51. 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.

52. 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.

53. Pursuant to NAC 630.370(1)(d)(1)-(2), a supervising physician is responsible for all the medical activities of his or her physician assistant and shall ensure strict compliance with the provisions of the certificate of registration issued to his or her physician assistant by the Pharmacy Board, and Pharmacy Board regulations regarding controlled substances and dangerous drugs.

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Count VIII

NRS 630.306(1)(c) (Unauthorized Dispensing)

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

55. Pursuant to NRS 630.306(1)(c), dispensing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to others except as authorized by law is grounds for discipline.

56. By allowing his physician assistants to dispense controlled substances and dangerous drugs to patients when he was not on-site at his medical facility, Respondent violated NAC 639.742 and NAC 639.945.

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

Count IX

NRS 630.306(1)(c) (Unauthorized Prescribing)

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

59. Pursuant to NRS 630.306(1)(c), dispensing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to others except as authorized by law is grounds for discipline.

60. By allowing his physician assistants to prescribe medication to patients of Respondent, without a bona fide therapeutic relationship with said patients, Respondent, pursuant to NAC 630.370(1)(d)(1)-(2), violated NAC 639.945.

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

Count X

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

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

63. 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 initiating discipline against a licensee.

64. Respondent failed to maintain complete and accurate medical records relating to the diagnosis, treatment and care of the patients to whom Respondent and Respondent's staff dispensed and prescribed controlled substances and dangerous drugs as described in this Section C.

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

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

DATED this 17 day of October, 2018.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____
Aaron Bart Fricke, Esq., Deputy General Counsel
Attorney for the Investigative Committee

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VERIFICATION

STATE OF NEVADA)
: ss.
COUNTY OF WASHOE)

Wayne Hardwick, 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 October, 2018.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

Wayne Hardwick

Wayne Hardwick, M.D., Chairman

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EXHIBIT C

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BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against RAANAN ELAN POKROY, M.D., Respondent.	**Case No. 19-38366-1**

FILED
MAR 2 1 2019
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 Bart Fricke, Esq., Deputy General Counsel and attorney for the IC, having a reasonable basis to believe that Raanan Elan Pokroy, 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 is and at all times relative to this Complaint was a physician holding an active license to practice medicine in the State of Nevada (License No. 13839). Respondent was originally licensed by the Board on March 7, 2011.

A. Respondent's Violations of Nevada Prescribing Laws, and the Nevada State Board of Pharmacy's Disciplinary Action.

2. Respondent held a Controlled Substance Registration, Certificate No. CS25754, issued by the Nevada State Board of Pharmacy (Pharmacy Board) at the time of the events set forth herein in this Section A.

3. Respondent was the proprietor of Reviv LLC, a Nevada Limited-Liability Company (Reviv), which was at all times relevant to this Complaint engaged in the business of offering various elective intravenous therapies and concierge medical services in Nevada.

[1] The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board), at the time this formal Complaint was authorized for filing, was composed of Board members Wayne Hardwick, M.D., Chairman, Mr. M. Neil Duxbury, and Aury Nagy, M.D.

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4. On or about December 14, 2018, the Pharmacy Board served Respondent with a Notice of Intended Action and Accusation (Accusation) in Pharmacy Board Case No. 17-098-S (Pharmacy Board Action). On or about March 4, 2019, Respondent entered into a Stipulation and Order with the Pharmacy Board, which became a final Decision and Order of the Pharmacy Board on March 6, 2019 (Pharmacy Board Order). In the Pharmacy Board Order, the Respondent freely and voluntarily waived his rights to a hearing, reconsideration, appeal and any and all other rights related to the Pharmacy Board Action, and Respondent neither contested nor admitted the Pharmacy Board's allegations, which were pled with particularity in the Accusation, to wit, that Respondent:

a. By allowing Reviv's staff, including Registered Nurses (RNs), none of whom were practitioners and none of whom were licensed to prescribe/order dangerous drugs, to use his authority to obtain, access and/or possess an inventory of dangerous drugs when he was not onsite and without his direct supervision, Respondent violated, or assisted and abetted his staff in violating NRS 454.213.

b. By allowing Reviv's staff, including RNs, none of whom were practitioners and none of whom were licensed to prescribe dangerous drugs, to use his authority to obtain, access and/or possess an inventory of dangerous drugs when he was not onsite and without his direct supervision, Respondent engaged in unprofessional conduct as defined in NAC 639.945(1)(g), (i) and (k).

c. By authorizing Reviv's staff, including RNs, none of whom were licensed practitioners, to use his authority to determine that a dangerous drug was medically appropriate and to administer a dangerous drug to Reviv's patients, Respondent violated, and/or aided and abetted Reviv's staff in violating Nevada Law, including NAC 639.945(1)(g), (i), (k) and (o).

d. By authorizing Reviv's staff, including RNs, none of whom were licensed practitioners, to administer a dangerous drug to patients who had not been

examined by a practitioner, with whom he did not have a bona fide therapeutic relationship and for whom he had not made any diagnosis or determination that the dangerous drug was medically necessary, Respondent violated, and/or aided and abetted Reviv's staff in violating Nevada law, including NAC 639.945(l)(g), (i), (k) and (o).

e. By purchasing compounded dangerous drugs from a pharmacy not licensed with the Pharmacy Board, Respondent violated, or assisted and abetted that pharmacy in violating NAC 639.6915.

5. Pursuant to the Pharmacy Board Order, Respondent stipulated to, and the Pharmacy Board ordered, *inter alia*, the following sanctions and conditions:

a. Respondent shall receive a public letter of reprimand from the Pharmacy Board regarding each of the violations set forth in Causes of Action 1 through 5, as stated in the Accusation.

b. Respondent's Controlled Substance Registration, Certificate No. CS25754, shall be placed on probation, effective immediately, and shall remain on probation for not less than twelve (12) months from the effective date of the Pharmacy Board Order.

c. The probationary status of Respondent's controlled substance registration is subject to the following terms and conditions. Respondent agrees to and shall:

i. Immediately establish and put into practice policies and procedures within his offices/clinics to ensure that:

1. A bona fide relationship between the patient and the practitioner ordering a controlled substance or dangerous drug exists before any controlled substance or dangerous drug is ordered or administered,

2. The practitioner who examines the patient and orders the controlled substance or dangerous drug maintains exclusive

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possession and control of the medication until after he or she creates a patient-specific and medication-specific order for the administration of the medication,

3. To the extent a controlled substance or dangerous drug called for in an order is put into the possession and control of anyone other than a practitioner, the ordering practitioner personally gives possession and control of the controlled substance or dangerous drug to the non-practitioner and only gives the non-practitioner the specific medication in the specific quantity needed to fill the order,
4. Respondent and his offices/clinics will purchase medications only from a Nevada-licensed and federally registered outsourcing facility, and
5. Respondent and the staff at his office/clinic comply with all other federal and state laws regarding the possession, control and administration of controlled substances and dangerous drugs.

d. Each of Respondent's offices/clinics may be subject to quarterly unannounced inspections by Pharmacy Board staff for one (1) year at Respondent's expense.

6. Pursuant to NRS 630.346(4), in any disciplinary hearing, a certified copy of the record of a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation, limitation, modification, denial or surrender of a license to practice medicine is conclusive evidence of its occurrence.

7. On information and belief, the allegations of the Pharmacy Board as pled with particularity in the Accusation are true and correct.

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COUNT I

NRS 630.306(1)(b)(3) (Engaging in Conduct That Violated Pharmacy Board Regulations)

8. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

9. 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.

10. By the conduct set forth in the Pharmacy Board Order, Respondent engaged in conduct that violates regulations adopted by the Pharmacy Board, specifically including but not limited to NAC 639.945(1)(g), (i), (k) and (o), and NAC 639.6915.

11. 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 630.306(1)(c) (Illegal Administration of Dangerous Drugs)

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

13. Pursuant to NRS 630.306(1)(c), administering any dangerous drugs to others except as authorized by law is grounds for initiating disciplinary action.

14. By the conduct set forth in the Pharmacy Board Order, Respondent administered dangerous drugs in violation of NRS 454.213.

15. 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 Adequately Supervise a Medical Assistant)

16. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

17. NRS 630.306(1)(r) provides that a failure to adequately supervise a medical assistant pursuant to the regulations of the Board is grounds for initiating disciplinary action.

18. By the conduct described herein, Respondent as proprietor of Reviv failed to adequately supervise his medical assistants in the performance of medical tasks by, *inter alia*, authorizing Reviv's staff to administer a dangerous drug to patients who had not been examined by Respondent and with whom he did not have a bona fide therapeutic relationship and for whom he had not made any diagnosis or determination that the dangerous drug was medically necessary.

19. 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 VI

NRS 630.305(1)(e) (Aiding Practice by Unlicensed Person)

20. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

21. NRS 630.305(1)(e) provides that the 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 an act, among others, that constitutes grounds for initiating disciplinary action.

22. By the conduct described herein, to the extent that Respondent either did not delegate medical tasks to Reviv staff as medical assistants, or to the extent that their actions were not authorized by Respondent, Respondent nonetheless aided, assisted and advised unlicensed persons, both directly and indirectly, in their engaging in the practice of medicine contrary to the provisions of NRS Chapter 630 or the regulations of the Board by, *inter alia*, authorizing Reviv's staff to administer a dangerous drug to patients who had not been examined by Respondent and with whom he did not have a bona fide therapeutic relationship and for whom he had not made any diagnosis or determination that the dangerous drug was medically necessary.

23. 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 V

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

24. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

25. NRS 630.3062(1)(a) provides that the failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient is an act, among others, that constitutes grounds for initiating disciplinary action.

26. Pursuant to NAC 630.830, as delegating practitioner, Respondent is professionally responsible for the safety and performance of each task which is delegated to a medical assistant.

27. Respondent and his medical assistants failed to maintain timely, legible, accurate and complete medical records by failing to include patient histories, clinical notes, examination findings, tests performed, procedures performed, dangerous drugs and hypodermic devices used, administered or prescribed, or therapeutic procedures performed that can be attributed to Respondent, among other omissions.

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.

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

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

DATED this 21 day of March, 2019.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

Aaron Bart Fricke, Esq., Deputy General Counsel
Attorney for the Investigative Committee

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VERIFICATION

STATE OF NEVADA)
: ss.
COUNTY OF WASHOE)

Wayne Hardwick, 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 21st day of March, 2019.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

Wayne Hardwick

Wayne Hardwick, M.D., Chairman

EXHIBIT D

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BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against JOYCE PO KIN CHANG, M.D., Respondent.	**Case No. 19-33320-1**

FILED
JAN 09 2019
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 Bart Fricke, Esq., Deputy General Counsel and attorney for the IC, having a reasonable basis to believe that Joyce Po Kin Chang, 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 is a physician and holds an active license to practice medicine in the State of Nevada (License No. 12643). She was originally licensed by the Board on February 28, 2008.

A. Respondent's Violations of Nevada Prescribing Laws, and the Nevada State Board of Pharmacy's Disciplinary Action.

2. Respondent held both a Controlled Substance Registration, Certificate No. CS15881, and a Practitioner Dispensing Registration, Certificate No. PD00340, issued by the Nevada State Board of Pharmacy (Pharmacy Board) at the time of the events set forth herein in this Section A.

3. On or about September 7, 2018, the Pharmacy Board served Respondent with a Notice of Intended Action and Accusation (Accusation) in Pharmacy Board Case

[1] The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board), at the time this formal Complaint was authorized for filing, was composed of Board members Wayne Hardwick, M.D., Chairman, Mr. M. Neil Duxbury and Aury Nagy, M.D.

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No. 18-029-CS-S (Pharmacy Board Action). In lieu of filing an Answer to the Accusation, on or about October 10, 2018, Respondent entered into a Stipulation and Order with the Pharmacy Board, which became a final Decision and Order of the Pharmacy Board on October 10, 2018 (Pharmacy Board Order). In the Pharmacy Board Order, the Respondent freely and voluntarily waived her rights to a hearing, reconsideration, appeal and any and all other rights related to the Pharmacy Board Action, and Respondent neither contested nor admitted the Pharmacy Board's allegations, which were pled with particularity in the Accusation, to wit, that Respondent:

a. Aided and abetted the unlawful prescribing of controlled substances in violation of federal law, including 21 CFR § 1306.03, 21 CFR § 1306.04, and 21 CFR § 1306.05, and Nevada law, including NRS 453.321(1)(a), NRS 453.331(1)(c), (d), (f) and (i), NRS 639.2813(1) and NAC 453.440(1)(c);

b. Aided and abetted the unlawful prescribing of dangerous drugs in violation of NRS 454.223(2)(a), NRS 454.311(1) and (2), NRS 639.235(1), NRS 639.2813(1) and NAC 454.060(1);

c. Unlawfully prescribed controlled substances and dangerous drugs to patients with whom she did not have a bona fide practitioner/patient relationship in violation of NRS 639.235 and/or NRS 639.23911(1)(a);

d. Failed to segregate expired medications from unexpired medications and secure those expired medications in an area where they could not be used to administer or fill prescriptions in violation of NRS 639.282(1)(d), NAC 639.510(3) and NAC 639.601(1);

e. Failed to keep and produce records documenting patient names and dates for Hydroquinone Tretinoin and/or Juvederm syringes dispensed or administered by her office, and failed to maintain a recordkeeping system with a readily retrievable record of her patients' names and the dates for Hydroquinone Tretinoin and/or Juvederm injections dispensed or

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administered by her office, in violation of NRS 639.234(4) and NAC 639.745(1)(a) and 3; and

f. Engaged in conduct violative of NAC 639.945(1)(h) by allowing other practitioners to treat her patients and bill Medicaid and other commercial health insurance plans using Respondent's National Provider Identifier, thereby representing falsely that Respondent provided the services and prescriptions personally, and causing Medicaid and other commercial health insurance plans to submit payment to her office for services she did not provide.

4. Pursuant to the Pharmacy Board Order, Respondent stipulated to, and the Pharmacy Board ordered, *inter alia*, the following penalty:

a. That Respondent's Controlled Substance Registration, Certificate No. CS15881, and Practitioner Dispensing Registration, Certificate No. PD00340, were each revoked.

5. Pursuant to NRS 630.346(4), in any disciplinary hearing, a certified copy of the record of a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation, limitation, modification, denial or surrender of a license to practice medicine is conclusive evidence of its occurrence.

6. On information and belief, the allegations of the Pharmacy Board as pled with particularity in the Accusation are true and correct.

COUNT I

NRS 630.306(1)(b)(3) (Engaging in Conduct That Violated Pharmacy Board Regulations)

7. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

8. 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.

9. By the conduct set forth in the Pharmacy Board Order, Respondent engaged in conduct that violates regulations adopted by the Pharmacy Board, specifically including but not

limited to NAC 453.440(1)(c), NAC 454.060(1), NAC 639.510(3), NAC 639.601(1), NAC 639.745(1)(a) and (3), and NAC 639.945(1)(h).

10. 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 630.306(1)(c) (Illegal Dispensing of Controlled Substances)

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

12. Pursuant to NRS 630.306(1)(c), prescribing or dispensing any controlled substance to others except as authorized by law is grounds for disciplinary action against a licensee.

13. By the conduct set forth in the Pharmacy Board Order, Respondent prescribed and dispensed controlled substances in violation of federal law, including 21 CFR § 1306.03, 21 CFR § 1306.04, and 21 CFR § 1306.05, and Nevada law, including NRS 453.321(1)(a), NRS 453.331(1)(c), (d), (f) and (i), NRS 639.2813(1), NAC 453.440(1)(c), NRS 454.223(2)(a), NRS 454.311(1) and (2), NRS 639.235(1), NRS 639.2813(1), NAC 454.060(1), and NRS 639.235 and/or NRS 639.23911(1)(a).

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

COUNT III

NRS 630.305(1)(d) (Charging for Services Not Rendered or Documented)

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

16. NRS 630.305(1)(d) provides that charging for visits to a physician's office which did not occur or for services which were not rendered or documented in the records of the patient is grounds for discipline.

17. By the conduct set forth in the Pharmacy Board Order, Respondent charged for visits to her office which did not occur or for services which were not rendered or documented in the records of the patient by allowing other practitioners to treat her patients and bill Medicaid and

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other commercial health insurance plans using Respondent's National Provider Identifier, thereby representing falsely that Respondent provided the services and prescriptions personally, and causing Medicaid and other commercial health insurance plans to submit payment to her office for services she did not provide.

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

COUNT IV

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

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

20. 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 initiating discipline against a licensee.

21. By the conduct set forth in the Pharmacy Board Order, Respondent failed to maintain complete medical records relating to the diagnosis, treatment and care of patients by, *inter alia*, failing to keep and produce records documenting patient names and dates for Hydroquinone Tretinoin and/or Juvederm syringes dispensed or administered by her office, and failed to maintain a recordkeeping system with a readily retrievable record of her patients' names and the dates for Hydroquinone Tretinoin and/or Juvederm injections dispensed or administered by her office, in violation of NRS 639.234(4) and NAC 639.745(l)(a) and (3).

22. 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 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);

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

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

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

DATED this 8th day of January, 2019.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: Aaron Bart Fricke

Aaron Bart Fricke, Esq., Deputy General Counsel
Attorney for the Investigative Committee

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VERIFICATION

STATE OF NEVADA)
: ss.
COUNTY OF CLARK)

Rachakonda D. Prabhu, 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 9th day of January, 2019.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

D Prabhu Rachakonda MD

Rachakonda D. Prabhu, M.D., Chairman

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against JOYCE PO KIN CHANG, M.D., Respondent.	**Case No. 19-33320-1**

ERRATA TO COMPLAINT

This is an errata to correct an insubstantial error in the Complaint filed January 9, 2019, in this matter, and should be appended thereto.

Footnote 1 on page 1 should read as follows:

"The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board), at the time this formal Complaint was authorized for filing, was composed of Board members Rachakonda D. Prabhu, M.D., Victor M. Muro, M.D., and Ms. April Mastroluca."

Dated this 22 day of January, 2019.

By: _____
Aaron Bart Fricke, Esq., Deputy General Counsel
Attorneys for the Investigative Committee

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Nevada State Board of Medical Examiners
9600 Gateway Drive
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EXHIBIT E

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against VICTORIA K. WALL, M.D., Respondent.	**Case No. 20-18832-1**

FILED
SEP - 8 2020
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

COMPLAINT

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

1. Respondent was at all times relative to this Complaint a medical doctor holding an inactive license to practice medicine in the State of Nevada (License No. 12154).

2. Respondent was initially licensed by the Medical Board on January 5, 2007.

3. Respondent voluntarily put her license in inactive status in or about May 2009 and has remained inactive to present, and pursuant to NRS 630.255, the licensee must meet conditions before resuming the practice of medicine in this State, to which Respondent did not comply.

4. Pursuant to NRS 630.020, prescribing controlled substances is the practice of medicine.

5. Pursuant to NRS 639.235(1), no person other than a practitioner holding a license to practice his or her profession in this State may prescribe or write a prescription.

[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 M. Neil Duxbury, Chairman, Aury Nagy, M.D., and Michael C. Edwards, M.D., FACS.

6. On June 5, 2020, the Nevada State Board of Pharmacy (Pharmacy Board) served Respondent with an order to cease and desist prescribing controlled substances to Nevada patients.

7. On or about June 14, 2020, Respondent surrendered her DEA Certificate of Registration (CS15026) which had allowed her to order, possess, dispense, administer, prescribe, or engage in any other activities with controlled substances or list I chemicals.

Count I

NRS 630.306(1)(b)(3) (Violation of a Regulation Adopted by the State Board of Pharmacy)

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

9. NRS 630(1)(b)(3) provides that engaging in any conduct which is a violation of a regulation adopted by the State Board of Pharmacy constitutes grounds for disciplinary action.

10. NAC 639.945(h) provides that it is unprofessional conduct and conduct contrary to the public interest to perform or in any way be a party to any fraudulent or deceitful practice or transaction.

11. Upon information and belief, Respondent renewed her license to prescribe controlled substances each renewal period since 2009, and represented to the Pharmacy Board that she had an active license issued by the Medical Board.

12. 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 630.304(1) (Misrepresentation in Obtaining or Renewing License)

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

14. NRS 630.304(1) provides that obtaining, maintaining or renewing or attempting to obtain, maintain or renew a license to practice medicine by bribery, fraud or misrepresentation or by any false, misleading, inaccurate or incomplete statement constitutes grounds for initiating disciplinary action.

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15. Respondent has maintained an inactive license since in or about May 2009 to present, and attested that she would not physically practice medicine in the State of Nevada on her renewal application.

16. Respondent did practice medicine in the State of Nevada when she prescribed controlled substances to Patients A, B, C, and D, while attesting on her renewal application to the Medical Board that she would not practice medicine in the State of Nevada.

17. 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 III – Patient A

NRS 630.306(1)(c) (Unlawful Prescribing of a Controlled Substance or Dangerous Drug)

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

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

20. NRS 630.306(1)(c) provides that administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or herself or to others except as authorized by law constitutes grounds for initiating disciplinary action.

21. Respondent prescribed Patient A controlled substances multiple times between in or about January 2012 and in or about March 2020.

22. Respondent did not have an active license to practice medicine, prescribing controlled substances is the practice of medicine, and therefore, these prescriptions were not authorized by law.

23. 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 IV – Patient B

NRS 630.306(1)(c) (Unlawful Prescribing of a Controlled Substance or Dangerous Drug)

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

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

26. NRS 630.306(1)(c) provides that administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or herself or to others except as authorized by law constitutes grounds for initiating disciplinary action.

27. Respondent prescribed Patient B controlled substances multiple times between in or about February 2014 and in or about December 2017.

28. Respondent did not have an active license to practice medicine, prescribing controlled substances is the practice of medicine, and therefore, these prescriptions were not authorized by law.

29. 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 V – Patient C

NRS 630.306(1)(c) (Unlawful Prescribing of a Controlled Substance or Dangerous Drug)

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

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

32. NRS 630.306(1)(c) provides that administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or herself or to others except as authorized by law constitutes grounds for initiating disciplinary action.

33. Respondent prescribed Patient C controlled substances multiple times between in or about September 2012 and in or about February 2014.

34. Respondent did not have an active license to practice medicine, prescribing controlled substances is the practice of medicine, and therefore, these prescriptions were not authorized by law.

35. 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 VI – Patient D

NRS 630.306(1)(c) (Unlawful Prescribing of a Controlled Substance or Dangerous Drug)

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

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

38. NRS 630.306(1)(c) provides that administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or herself or to others except as authorized by law constitutes grounds for initiating disciplinary action.

39. Respondent prescribed Patient D a controlled substance in or about December 2012.

40. Respondent did not have an active license to practice medicine, prescribing controlled substances is the practice of medicine, and therefore, these prescriptions were not authorized by law.

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.

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

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Nevada State Board of Medical Examiners
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5. That the Board take such other and further action as may be just and proper in these premises.

DATED this 8th day of September, 2020.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____
Donald K. White, Esq., Deputy General Counsel
Attorney for the Investigative Committee

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VERIFICATION

STATE OF NEVADA)
: ss.
COUNTY OF WASHOE)

Mr. M. Neil Duxbury, 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 8th day of September, 2020.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

M. Neil Duxbury

By: _____
M. Neil Duxbury, Chairman

EXHIBIT F

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE B
November 10, 2021

Victor M. Muro, M.D., Chair, Aury Nagy, M.D., and Ms. Maggie Arias-Petrel

The Committee, in its review, conducted the following business:

Total Cases Considered	135
Total Cases Authorized for Filing Formal Complaint (to be published)	8
Total Cases Authorized for Peer Review	13
Total Cases Requiring an Appearance	5
Total Cases Authorized for a Letter of Concern	26
Total Cases Authorized for Further Follow-up or Investigation	5
Total Cases Reviewed for Compliance	1
Total Cases Authorized for Closure	77

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE A
November 19, 2021

Bret W. Frey, M.D., Chair, Chowdhury H. Ahsan, M.D., Ph.D., FAAC, and Col. Eric D. Wade, USAF (Ret.)

The Committee, in its review, conducted the following business:

Total Cases Considered	146
Total Cases Authorized for Filing Formal Complaint (to be Published)	12
Total Cases Authorized for Peer Review	20
Total Cases Requiring an Appearance	10
Total Cases Authorized for a Letter of Concern	30
Total Cases Authorized for Further Follow-up or Investigation	7
Total Cases Reviewed for Compliance	0
Total Cases Authorized for Closure	67

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE B
February 9, 2022

Victor M. Muro, M.D., Chair, Aury Nagy, M.D., and Ms. Maggie Arias-Petrel

The Committee, in its review, conducted the following business:

Total Cases Considered	137
Total Cases Authorized for Filing Formal Complaint (to be published)	14
Total Cases Authorized for Peer Review	34
Total Cases Requiring an Appearance	8
Total Cases Authorized for a Letter of Concern	14
Total Cases Authorized for Further Follow-up or Investigation	3
Total Cases Reviewed for Compliance	0
Total Cases Authorized for Closure	64

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE A
February 18, 2022

Bret W. Frey, M.D., Chair, Chowdhury H. Ahsan, M.D., Ph.D., FACC, and Col. Eric D. Wade, USAF (Ret.)

The Committee, in its review, conducted the following business:

Total Cases Considered	124
Total Cases Authorized for Filing Formal Complaint (to be Published)	9
Total Cases Authorized for Peer Review	28
Total Cases Requiring an Appearance	4
Total Cases Authorized for a Letter of Concern	19
Total Cases Authorized for Further Follow-up or Investigation	6
Total Cases Reviewed for Compliance	0
Total Cases Authorized for Closure	58

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE B
May 11, 2022

Victor M. Muro, M.D., Chair, Aury Nagy, M.D., and Ms. Maggie Arias-Petrel

The Committee, in its review, conducted the following business:

Total Cases Considered	143
Total Cases Authorized for Filing Formal Complaint (to be published)	13
Total Cases Authorized for Peer Review	20
Total Cases Requiring an Appearance	11
Total Cases Authorized for a Letter of Concern	19
Total Cases Authorized for Further Follow-up or Investigation	4
Total Cases Reviewed for Compliance	0
Total Cases Authorized for Closure	76

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE A
May 31, 2022

Bret W. Frey, M.D., Chair, Chowdhury H. Ahsan, M.D., Ph.D., FACC, and Col. Eric D. Wade, USAF (Ret.)

The Committee, in its review, conducted the following business:

Total Cases Considered	174
Total Cases Authorized for Filing Formal Complaint (to be Published)	13
Total Cases Authorized for Peer Review	28
Total Cases Requiring an Appearance	10
Total Cases Authorized for a Letter of Concern	30
Total Cases Authorized for Further Follow-up or Investigation	2
Total Cases Reviewed for Compliance	1
Total Cases Authorized for Closure	90

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE C
August 11, 2022

Aury Nagy, M.D., Chair, Ms. Maggie Arias-Petrel, and
Nicola (Nick) M. Spirtos, M.D., F.A.C.O.G.

The Committee, in its review, conducted the following business:

Total Cases Considered	72
Total Cases Authorized for Filing Formal Complaint (to be published)	7
Total Cases Authorized for Peer Review	23
Total Cases Requiring an Appearance	1
Total Cases Authorized for a Letter of Concern	29
Total Cases Authorized for Further Follow-up or Investigation	1
Total Cases Reviewed for Compliance	0
Total Cases Authorized for Closure	11

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE A
August 19, 2022

Bret W. Frey, M.D., Chair, Col. Eric D. Wade, USAF (Ret.), and
Carl N. Williams, Jr., M.D., FACS

The Committee, in its review, conducted the following business:

Total Cases Considered	166
Total Cases Authorized for Filing Formal Complaint (to be Published)	21
Total Cases Authorized for Peer Review	16
Total Cases Requiring an Appearance	2
Total Cases Authorized for a Letter of Concern	45
Total Cases Authorized for Further Follow-up or Investigation	11
Total Cases Reviewed for Compliance	0
Total Cases Authorized for Closure	71

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE B
August 24, 2022

Victor M. Muro, M.D., Chair, Chowdhury H. Ahsan, M.D., Ph.D., FACC, and Ms. Pamela J. Beal

The Committee, in its review, conducted the following business:

Total Cases Considered	112
Total Cases Authorized for Filing Formal Complaint (to be published)	5
Total Cases Authorized for Peer Review	22
Total Cases Requiring an Appearance	9
Total Cases Authorized for a Letter of Concern	18
Total Cases Authorized for Further Follow-up or Investigation	0
Total Cases Reviewed for Compliance	1
Total Cases Authorized for Closure	57

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE B
November 9, 2022

Victor M. Muro, M.D., Chair, Chowdhury H. Ahsan, M.D., Ph.D., FACC, and Ms. Pamela J. Beal

The Committee, in its review, conducted the following business:

Total Cases Considered	97
Total Cases Authorized for Filing Formal Complaint (to be published)	4
Total Cases Authorized for Peer Review	12
Total Cases Requiring an Appearance	4
Total Cases Authorized for a Letter of Concern	22
Total Cases Authorized for Further Follow-up or Investigation	1
Total Cases Reviewed for Compliance	0
Total Cases Authorized for Closure	54

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE C
November 10, 2022

Aury Nagy, M.D., Chair, Ms. Maggie Arias-Petrel, and
Nicola (Nick) M. Spirtos, M.D., F.A.C.O.G.

The Committee, in its review, conducted the following business:

Total Cases Considered	71
Total Cases Authorized for Filing Formal Complaint (to be published)	8
Total Cases Authorized for Peer Review	13
Total Cases Requiring an Appearance	0
Total Cases Authorized for a Letter of Concern	26
Total Cases Authorized for Further Follow-up or Investigation	1
Total Cases Reviewed for Compliance	0
Total Cases Authorized for Closure	23

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE A
November 18, 2022

Bret W. Frey, M.D., Chair, Col. Eric D. Wade, USAF (Ret.), and
Carl N. Williams, Jr., M.D., FACS

The Committee, in its review, conducted the following business:

Total Cases Considered	134
Total Cases Authorized for Filing Formal Complaint (to be Published)	19
Total Cases Authorized for Peer Review	26
Total Cases Requiring an Appearance	8
Total Cases Authorized for a Letter of Concern	25
Total Cases Authorized for Further Follow-up or Investigation	2
Total Cases Reviewed for Compliance	0
Total Cases Authorized for Closure	54

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE B
February 8, 2023

Victor M. Muro, M.D., Chair, Chowdhury H. Ahsan, M.D., Ph.D., FACC, and Ms. Pamela J. Beal

The Committee, in its review, conducted the following business:

Total Cases Considered	94
Total Cases Authorized for Filing Formal Complaint (to be published)	2
Total Cases Authorized for Peer Review	16
Total Cases Requiring an Appearance	4
Total Cases Authorized for a Letter of Concern	18
Total Cases Authorized for Further Follow-up or Investigation	6
Total Cases Reviewed for Compliance	0
Total Cases Authorized for Closure	48

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE C
February 9, 2023

Aury Nagy, M.D., Chair, Nicola (Nick) M. Spirtos, M.D., F.A.C.O.G., and Ms. Maggie Arias-Petrel

The Committee, in its review, conducted the following business:

Total Cases Considered	58
Total Cases Authorized for Filing Formal Complaint (to be published)	1
Total Cases Authorized for Peer Review	13
Total Cases Requiring an Appearance	3
Total Cases Authorized for a Letter of Concern	14
Total Cases Authorized for Further Follow-up or Investigation	3
Total Cases Reviewed for Compliance	0
Total Cases Authorized for Closure	24

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE A
February 17, 2023

Bret W. Frey, M.D., Chair, Col. Eric D. Wade, USAF (Ret.), and
Carl N. Williams, Jr., M.D., FACS

The Committee, in its review, conducted the following business:

Total Cases Considered	118
Total Cases Authorized for Filing Formal Complaint (to be Published)	9
Total Cases Authorized for Peer Review	18
Total Cases Requiring an Appearance	6
Total Cases Authorized for a Letter of Concern	21
Total Cases Authorized for Further Follow-up or Investigation	5
Total Cases Reviewed for Compliance	0
Total Cases Authorized for Closure	59

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE B
May 10, 2023

Victor M. Muro, M.D., Chair, Chowdhury H. Ahsan, M.D., Ph.D., FACC, and Ms. Pamela J. Beal

The Committee, in its review, conducted the following business:

Total Cases Considered	98
Total Cases Authorized for Filing Formal Complaint (to be published)	12
Total Cases Authorized for Peer Review	17
Total Cases Requiring an Appearance	2
Total Cases Authorized for a Letter of Concern	8
Total Cases Authorized for Further Follow-up or Investigation	0
Total Cases Reviewed for Compliance	2
Total Cases Authorized for Closure	57

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

EXHIBIT G

FILED
SEP 11 2023
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

LEWIS BRISBOIS BISGAARD & SMITH LLP
MELANIE L. THOMAS
Nevada Bar No. 12576
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
Telephone: 702.893.3383
Facsimile: 702.893.3789
Melanie.Thomas@lewisbrisbois.com
Attorneys for Sassan Kaveh, M.D.

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

In the Matter of Charges and Complaint Against: SASSAN KAVEH, M.D., Respondent.	CASE NO. 23-10414-1 **RESPONDENT SASSAN KAVEH, M.D.'S PREHEARING CONFERENCE STATEMENT**

SASSAN KAVEH, M.D. ("Dr. Kaveh"), by and through his counsel, LEWIS BRISBOIS BISGAARD & SMITH, LLP, hereby submits his Prehearing Conference Statement, in accordance with Nevada Administrative Code 630.465, as follows:

I.

LIST OF WITNESSES

1. Sassan Kaveh, M.D.
c/o Melanie L. Thomas, Esq.
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118

Dr. Kaveh will testify to the facts and circumstances surrounding the allegations contained in the Complaint.

2. Bret W. Frey, M.D.
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, NV 89521

This witness will testify to the facts and circumstances surrounding the allegations contained in the Complaint as well as to any other matter relevant to this proceeding, including his participation in the purported Investigative Committee convened to discuss

this matter. This witness is also expected to testify as to the Board's use of NRS 630.306(1)(b)(3) as the sole basis for reciprocal discipline, the prior instances involving the Board's use of this statutory provision, the circumstances that would justify non punitive admonishment versus public complaint, and the Board's formal and informal policies and procedures directing his conduct in these types of proceedings, including specifically *this* case.

3. Col. Eric D. Wade, USAF (Ret.)
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, NV 89521

This witness will testify to the facts and circumstances surrounding the allegations contained in the Complaint as well as to any other matter relevant to this proceeding, including his participation in the purported Investigative Committee convened to discuss this matter. This witness is also expected to testify as to the Board's use of NRS 630.306(1)(b)(3) as the sole basis for reciprocal discipline, the prior instances involving the Board's use of this statutory provision, the circumstances that would justify non punitive admonishment versus public complaint, and the Board's formal and informal policies and procedures directing his conduct in these types of proceedings, including specifically *this* case.

4. Chowdhury H. Ahsan, M.D.
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, NV 89521

This witness will testify to the facts and circumstances surrounding the allegations contained in the Complaint as well as to any other matter relevant to this proceeding, including his participation in the purported Investigative Committee convened to discuss this matter. This witness is also expected to testify as to the Board's use of NRS 630.306(1)(b)(3) as the sole basis for reciprocal discipline, the prior instances involving the Board's use of this statutory provision, the circumstances that would justify non punitive admonishment versus public complaint, and the Board's formal and informal policies and

procedures directing his conduct in these types of proceedings, including specifically *this* case.

5. Ernesto Diaz
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, NV 89521

This witness will testify to the facts and circumstances surrounding the allegations contained in the Complaint as well as to any other matter relevant to this proceeding, including his participation in the investigation of this matter, and the Board's formal and informal policies and procedures directing his conduct in these types of proceedings, including specifically *this* case.

6. William P. Shogren, Esq.
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, NV 89521

This witness will testify to the facts and circumstances surrounding the allegations contained in the Complaint as well as to any other matter relevant to this proceeding, including his participation in the errata to the Complaint served September 8, 2023. This witness is also expected to testify as to the Board's use of NRS 630.306(1)(b)(3) as the sole basis for reciprocal discipline, the prior instances involving the Board's use of this statutory provision, the circumstances that would justify non punitive admonishment versus public complaint, and the Board's formal and informal policies and procedures directing his conduct in these types of proceedings, including specifically *this* case.

7. Mercedes Fuentes
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, NV 89521

This witness will testify to the facts and circumstances surrounding the allegations contained in the Complaint as well as to any other matter relevant to this proceeding, including her participation in filing and serving Dr. Kaveh's Motion to Dismiss without the exhibits he submitted with it, the decision to remove the exhibits from the submitted PDF copy at the time she filed it, and the decision to serve a file stamped copy without the

accompanying exhibits when providing to the Hearing Officer. This witness is also expected to testify as to the Board's use of NRS 630.306(1)(b)(3) as the sole basis for reciprocal discipline and any prior instances involving the Board's use of this statutory provision, and the Board's formal and informal policies and procedures directing her conduct in these types of proceedings, including specifically *this* case.

II.

LIST OF EXHIBITS

1. Exhibit - A - Pre-Hearing Motion to Dismiss: "The Complaint Process"
2. Exhibit – B - Pre-Hearing Motion to Dismiss: Complaint Case No. 18-8756-1
3. Exhibit – C - Pre-Hearing Motion to Dismiss: Complaint Case No. 19-38366-1
4. Exhibit – D - Pre-Hearing Motion to Dismiss: Complaint Case No. 19-33320-1
5. Exhibit – E - Pre-Hearing Motion to Dismiss: Complaint Case No. 20-18832-1
6. Exhibit – F - Pre-Hearing Motion to Dismiss: Combined Summary Reports of Investigative Committees of the Medical Board
7. Exhibit – G - Board's Exhibit 1
8. Exhibit – H - Board's Exhibit 2
9. Exhibit – I - Board's Exhibit 3
10. Exhibit – J - Board's Exhibit 4
11. Exhibit – K - Errata to Complaint (filed September 8, 2023)

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Respondent reserves the right to use all exhibits identified by the Investigative Committee in its prehearing conference statement and/or in any subsequent amended, revised, or supplemental prehearing conference statement.

September 8, 2023

LEWIS BRISBOIS BISGAARD & SMITH LLP

By /s/ Melanie L. Thomas

MELANIE L. THOMAS
Nevada Bar No. 12576
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
Melanie.Thomas@lewisbrisbois.com
Attorneys for Sassan Kaveh, M.D.

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of September, 2023, a true and correct copy of **Respondent Sassan Kaveh, M.D.'s Pre-Hearing Conference Statement** was sent via electronic mail to the following:

William P. Shogren
Deputy General Counsel
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, NV 89521
shogrenw@medboard.nv.gov
mfuentes@medboard.nv.gov

Nancy Moss Ghusn, Esq.
Hearing Officer
NMG416@gmail.com

By /s/ Melanie L. Thomas
An Employee of
LEWIS BRISBOIS BISGAARD & SMITH LLP

EXHIBIT H

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **SASSAN KAVEH, M.D.,** **Respondent.**	**Case No. 23-10414-1**

FILED
SEP 11 2023
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

PROOF OF SERVICE

(IC'S PREAHEARING CONFERNCE STATEMENT)

I, Mercedes Fuentes, Legal Assistant for the Nevada State Board of Medical Examiners, hereby certify that on September 5, 2023, I sent the **PREHEARING CONFERENCE STATEMENT OF THE INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS** to:

SASSAN KAVEH, M.D.
c/o Melanie L. Thomas, Esq.
Lewis Brisbois Bisgaard & Smith, LLP
6385 S. Rainbow Blvd., Suite 600
Las Vegas, NV 89118

via Fed Ex 2-Day delivery, tracking no. 773312281495 and was delivered on September 6, 2023, at 8:32 a.m.. *See* **Exhibit 1**.

DATED this 11th day of September, 2023.

MERCEDES FUENTES
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

FedEx

September 11, 2023

Dear Customer,

The following is the proof-of-delivery for tracking number: 773312281495

Delivery Information:

Status:	Delivered	**Delivered To:**	Receptionist/Front Desk
Signed for by:	B.COMBS	**Delivery Location:**	6385 S RAINBOW BLVD STE 600
Service type:	FedEx 2Day		
Special Handling:	Deliver Weekday; Adult Signature Required		LAS VEGAS, NV, 89118
		Delivery date:	Sep 6, 2023 08:32

Shipping Information:

Tracking number:	773312281495	**Ship Date:**	Sep 5, 2023
		Weight:	0.5 LB/0.23 KG

Recipient:
Melanie L. Thomas, Esq., Lewis Brisbois Bisgaard & Smith
6385 S. Rainbow Blvd., Suite 600
LAS VEGAS, NV, US, 89118

Shipper:
Mercedes Fuentes, Nevada State Board of Med Exam
9600 Gateway Drive
Reno, NV, US, 89502

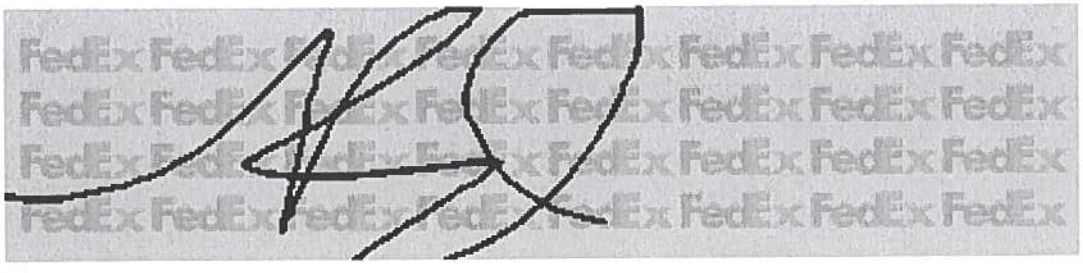


EXHIBIT I

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **SASSAN KAVEH, M.D.,** **Respondent.**	**Case No. 23-10414-1**

FILED

SEP 19 2023

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

INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS' MOTION IN LIMINE TO EXCLUDE CERTAIN WITNESSES LISTED IN RESPONDENT'S PREHEARING CONFERENCE STATEMENT

The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board), by and through William P. Shogren, Deputy General Counsel and attorney for the IC, hereby files its Motion in Limine to Exclude Certain Witnesses Listed in Respondent's Prehearing Conference Statement filed on September 11, 2023.[1]

MEMORANDUM OF POINTS AND AUTHORITIES

I. PROCEDURAL BACKGROUND

On May 8, 2023, the IC filed a formal Complaint against Sassan Kaveh, M.D. (Respondent), alleging one (1) count of violation of NRS 630.306(1)(b)(3). The language of the statute specifically provides that "engaging in any conduct which is a violation of a provision of chapter 639 of NRS, or a regulation adopted by the State Board of Pharmacy pursuant thereto, that is applicable to a licensee who is a practitioner," constitutes grounds of initiating disciplinary action against a respondent. In short, the sole allegation in the IC's Complaint is that Respondent violated NRS and NAC 639, because Respondent was disciplined by the Nevada Board of Pharmacy, which is not disputed.

/ / /

[1] Pursuant to NRS 622A.360(2)(f), a party may file a prehearing motion with leave of the hearing officer for any motion outside the prescribed motions listed, specifically in this statute, to request appropriate action or relief before the date of the hearing. In an email dated September 11, 2023, the Hearing Officer gave the IC leave to file this motion, and the requested leave was not objected to by Respondent.

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A Prehearing Conference in this matter was held on September 11, 2023 and prior to the conference, the IC filed its Prehearing Conference Statement (Statement) on September 5, 2023. Respondent filed his Prehearing Conference Statement on September 11, 2023. Respondent's Prehearing Conference Statement lists seven (7) proposed witnesses, including Bret W. Frey, M.D. (witness number two (2)); Col. Eric D. Wade (witness number three (3)); Chowdhury H. Ahsan, M.D. (witness number four (4)); me, William P. Shogren (witness number six (6)); and Mercedes Fuentes (witness number seven (7)).

The IC maintains that it would be improper for these five (5) of the seven (7) proposed witnesses be called upon to testify during the formal hearing, and counsel for the IC requests that these witnesses be excluded from testifying at the formal hearing in this case.

II. STATEMENT OF LAW

In 1899, the Legislature delegated the power and duty to the Board to determine the initial and continuing competence of physicians, physician assistants, and practitioners of respiratory care "[f]or the protection and benefit of the public." *See* NRS 630.003(1)(b). The Board is required to enforce the provisions of NRS Chapter 630, and NAC 630 (collectively, the Medical Practice Act or MPA). Accordingly, the powers conferred upon the Board by the MPA must be liberally construed to allow the Board to carry out its duties to protect the public and enforce the provisions of the MPA. *See* NRS 630.003(2).

To accomplish this charge, the Board must conduct investigations and hold hearings pertaining to the execution of its duties. *See* NRS 630.140(1). As summarized by the Nevada Supreme Court in *Sarfo v. Board of Medical Examiners,* 134 Nev. 709, 712 429 P.3d 650, 652-53 (2018), "[t]he Board must designate an IC [Investigative Committee] to 'review each complaint and conduct an investigation to determine if there is a reasonable basis for the complaint.' NRS 630.311(1). The IC has no disciplinary powers and can only file a complaint if the Board concludes there is a reasonable basis to do so."

Accordingly, if the IC determines there is a reasonable basis for a complaint, or that any violation of the MPA has occurred, the IC *may file a formal complaint with the board. See* NRS 630.346(2); NRS 630.339 (emphasis added). In order to protect not only complainants,

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but licensees as well, the citizen complaint, IC proceedings, and the corresponding investigative file are confidential by law. *See* NRS 630.336(4) ("a complaint filed with the board..., [a]nd all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential," subject to limited exceptions addressed below); NRS 630.311(3) ("The proceedings of the Investigative Committee are confidential and are not subject to the requirements of the [Open Meeting Law]."); *see also* NRS 622A.330(2) ("The investigative file for [a contested] case is not discoverable unless the prosecutor intends to present materials from the investigative file as evidence in support of the case.").

If, after investigation, the IC determines it is proper to file a formal complaint against a respondent, the formal complaint and the related disciplinary proceedings are then prosecuted by attorneys for the IC, creating an attorney-client relationship. Naturally, communications between the IC and its counsel, as well as the mental impressions, conclusions, opinions, and legal theories of the IC's attorneys concerning the matters they are charged with prosecuting are privileged and confidential. *See* NRS 49.095; NRCP 26(b)(3)(B); NRPC Rule 1.6(a). NRS 630.336(3)(c) extends this confidentiality not only to communications between the Board and its committees, but also any communications between the Board or its staff, investigators, experts, committees, panels, hearing officers, advisory members, consultants, or counsel.

Of course, "[t]he formal complaints or other documents filed by the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose discipline are public records." *See* NRS 630.336(5). The Board shares these materials with a licensee in a disciplinary matter. *See* NAC 630.465, in pertinent part states that witness lists and evidence to be introduced at a hearing shall be provided at or before a Prehearing Conference; *see also* NRS 622A.330(2), noting that if "the prosecutor intends to present materials from the investigative file as evidence in support of the case," such materials are discoverable.

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III. ARGUMENT

1. Witnesses Number Two (2), Three (3), Four (4), Six (6), and Seven (7) Cannot Testify Due to Statutory Confidentiality Provisions and Attorney-Client Privilege.

In his Prehearing Conference Statement, Respondent lists witnesses Bret W. Frey, M.D., Col. Eric D. Wade, and Chowdhury H. Ahsan, M.D. These three (3) proposed witnesses made up the IC at the time the Complaint against Respondent was authorized for filing. *See Errata to Complaint.* Per his Prehearing Conference Statement, Respondent anticipates that these witnesses will testify to the facts and circumstances surrounding the allegations contained in the Complaint as well as to any other matter relevant to this proceeding, including the listed witnesses' participation in the IC meetings when discussing the underlying investigation of this case. Respondent also expects these three (3) witnesses to testify as to the Board's use of NRS 630.306(1)(b)(3) as the sole basis for reciprocal discipline, the prior instances involving the Board's use of this statutory provision, the circumstances that would justify non-punitive admonishment versus public complaint, and the Board's formal and informal policies and procedures directing their conduct in these types of proceedings, specifically in *this* case.

To this end, Respondent seeks to elicit testimony regarding the confidential content of IC investigations and meetings in violation of NRS 630.311(3). Aside from being irrelevant to the Complaint against the Respondent, which is discussed below, such testimonial evidence is not permitted under the MPA and Nevada Administrative Procedures Act.

As noted above, all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a licensee of the Board are confidential. Communications between the Board and the IC, or between the IC and its counsel, as well as the mental impressions, conclusions, opinions, and legal theories of counsel concerning the matter are privileged and confidential. *See* NRS 49.095; NRCP 26(b)(3)(B); NRS 630.336(2)(c); *see also* RPC 1.6(a). The proceedings of the Investigative Committee are also confidential and are not subject to the requirements of the Open Meeting Law. NRS 630.336(5)

If called to testify, the three (3) members of the IC cannot testify to their participation in the "purported Investigative Committee convened to discuss this matter." They cannot testify as to the

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Board's use of NRS 630.306(1)(b)(3) as a basis for discipline, the prior instances involving the Board's use of this statutory provision, the circumstances that would justify non-punitive admonishment versus public complaint, and the Board's formal and informal policies and procedures directing the IC's conduct in disciplinary proceedings. The law is clear on this matter. Disclosures, as stated in the Prehearing Conference Statement of the Respondent, would violate the provisions of the multiple Nevada statutes and rules of professional conduct for attorneys.

Respondent also includes the IC's attorney, William Shogren, and Mercedes Fuentes, the legal assistant for the Board (board staff), as witnesses that will testify in the formal hearing. The same confidentiality provisions outlined above apply to the IC's counsel and to the Board's legal support staff. Communications between the IC and its counsel and legal staff for the Board are confidential. Mental impressions, conclusions, opinions, and legal theories of counsel concerning the matter are privileged and confidential. Witness numbers six (6) and seven (7) cannot testify as to the IC's investigative process in this matter without violating Nevada Rules of Professional Conduct and multiple Nevada statutes.

Respondent can cite to no legal authority which requires the disclosure of privileged or other protected matters, and no exception or waiver applies to these privileges and statutes. Additionally, Respondent cannot cite any valid legal justification to include IC members, IC counsel, or Board legal support staff, as witnesses. As such, the testimony of the above-mentioned witnesses cannot be provided as demanded by Respondent.

2. The Testimony of Several of Respondent's Proposed Witnesses is Irrelevant to the Charges Against Him.

The Nevada Rules of Evidence define "relevant evidence" as evidence which has any tendency to make the existence of any fact of consequence to the determination of the action more or less probable than it would be without the evidence. *See* NRS 48.015. The Nevada Administrative Procedures act states that "[i]rrelevant, immaterial, or unduly repetitious evidence *must be excluded.* 233B.123(1) (emphasis added).

Here, the Complaint against Respondent includes one (1) charge for a violation of the MPA, namely that, pursuant to a stipulation and order entered into with the Nevada State Board of

Pharmacy, Respondent violated provisions of NRS 639 and therefore is subject to discipline under NRS 630.306(1)(b)(3). This case is solely about Respondent's Nevada Pharmacy Board discipline, which is not disputed.

Respondent's case is not one with an extensive record involving multiple patients or multitudes of medical documents. There is no question of fact in this matter. This is reflected in the brevity of the IC's filings. The IC's Prehearing Conference Statement consists of the formal Complaint, the Acceptance of Service of the Complaint, Respondent's Answer to the Complaint, a letter from Respondent regarding reporting the Nevada Pharmacy Board action, relevant statutory provisions which Respondent is alleged to have violated, the First Amended Notice of Intended Action and Accusation from the Pharmacy Board, and the signed Stipulation and Order from the Nevada Pharmacy Board. The authenticity of the aforementioned documents is not in question. Counsel for the IC does not seek to include any portion of the IC's file in Respondent's case.

In Respondent's own Prehearing Conference Statement, and pending Motion to Dismiss, Respondent does not contest the fact that there was a Nevada Pharmacy Board disciplinary action, or that according to the Nevada Pharmacy Board Stipulation and Order, the Pharmacy Board violated various provisions of NRS 639.

Once again, Respondent's proposed witnesses are irrelevant, as any possible testimony would not make the existence of any fact of consequence to the determination of the action more or less probable than it would be without the evidence. The IC members, IC counsel, and Board legal staff were not involved with the underlying Nevada Pharmacy Board disciplinary action, and, in turn, their testimony would be irrelevant and immaterial to whether Respondent violated a provision of NRS 639. This is demonstrated by Respondent's own letter to the Board, included as Exhibit 4 of the IC's Prehearing Conference Statement, stating that Respondent entered into a stipulated order with the Nevada Pharmacy Board.

This also includes the irrelevant testimony sought by Respondent regarding the IC attorney's "participation in the errata to the Complaint served September 8, 2023." *See Respondent's Prehearing Conference Statement* at 3:15. Per the Errata to Complaint, a footnote naming the IC members in this matter was amended due to an inadvertent clerical error. Upon Respondent's

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accusations and noticing the error, the IC filed an errata to correct the inadvertent error, as required by NRCP Rule 3.3(a)(1). The filing of this errata is a collateral issue and is irrelevant and immaterial to whether Respondent violated a provision of NRS 639. Further, any testimony that could possibly be provided by this IC attorney without violation of attorney-client privilege or the work product doctrine, specifically, "his participation in the errata," would be repetitive of what was already represented in the errata itself.

Additionally, Respondent lists Mercedes Fuentes, a legal assistant for the Board, as a witness, and anticipates she will testify about her "participation in filing and serving Dr. Kaveh's Motion to Dismiss without the exhibits he submitted with it, the decision to remove the exhibits from the submitted PDF copy at the time she filed it, and the decision to serve a file stamped copy without the accompanying exhibits when providing to the Hearing Officer." Not only is this collateral matter irrelevant and immaterial to the proceedings, but this purported issue was also cured upon the filing of Respondent's Pre-Hearing Motion to Dismiss, with exhibits attached, on September 6, 2023. *See Respondent's Pre-Hearing Motion to Dismiss*. There is nothing left for Ms. Fuentes to testify to, that would not be irrelevant or immaterial, confidential or privileged. Instead, this appears to be a shameless attempt to harass the Board's support staff and is the equivalent of naming a court filing clerk as a witness.

Respondent is attempting to muddy the waters by including proposed witnesses whose anticipated testimony would not tend to make the ultimate facts in this case more or less probable. Therefore, these witnesses must be excluded pursuant to NRS 233B.123(1) as irrelevant and immaterial.

IV. CONCLUSION

In conclusion, Respondent filed an improper Prehearing Conference Statement which includes several witnesses that are immaterial, irrelevant and are barred by confidentiality and privilege statutes and rules of professional conduct. This is a straightforward matter involving one (1) count of violation of a Nevada Pharmacy Board statute, with a very limited set of facts which are not disputed. Respondent's counsel is attempting to confuse the core issues in this matter, presumably to drive up costs and vex the IC, their attorneys and Board staff. The IC respectfully

requests that Respondent's proposed witnesses two, three, four, six, and seven (2, 3, 4, 6, and 7) be excluded from testifying at the formal hearing in this matter.

DATED this 18th day of September, 2023.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

WILLIAM P. SHOGREN
Deputy General Counsel
9600 Gateway Drive
Reno, NV 89521
Tel: (775) 688-2559
Email: shogrenw@medboard.nv.gov
Attorney for the Investigative Committee

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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 18th day of September, 2023, I served a file-stamped copy of the foregoing **INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS' MOTION IN LIMINE TO EXCLUDE CERTAIN WITNESSES LISTED IN RESPONDENT'S PREHEARING CONFERENCE STATEMENT** via U.S. Certified Mail and Email to the following parties:

SASSAN KAVEH, M.D.
c/o Melanie L. Thomas, Esq.
Lewis Brisbois Bisgaard & Smith, LLP
6385 S. Rainbow Blvd., Suite 600
Las Vegas, NV 89118
Melanie.Thomas@lewisbrisbois.com
Clayton.Dreyer@lewisbrisbois.com
Emma.Gonzales@lewisbrisbois.com

Tracking No.:

A copy of the Investigative Committee of The Nevada State Board of Medical Examiners' Motion in Limine to Exclude Certain Witnesses Listed in Respondent's Prehearing Conference Statement sent via Email and U.S. Regular Mail to:

NANCY L. MOSS GHUSN, ESQ.
675 W. Moana Ln., Ste. 107
Reno, NV 89509
nmg416@gmail.com
Hearing Officer

DATED this 18th day of September, 2023.

MARGARET BYRD
Legal Assistant
Nevada State Board of Medical Examiners

EXHIBIT J

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **SASSAN KAVEH, M.D.,** **Respondent.**	**Case No. 23-10414-1**

FILED
SEP 19 2023
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

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Nevada State Board of Medical Examiners
9600 Gateway Drive
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THE INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINER'S OPPOSITION TO RESPONDENT'S PRE-HEARING MOTION TO DISMISS

The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board), by and through William P. Shogren, General Counsel and attorney for the IC, hereby files its Opposition to Respondent's "Pre-Hearing Motion to Dismiss" dated and served on September 5, 2023.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

The Nevada State Legislature has found that it is among the responsibilities of the State Government to ensure the competency of its practitioners of medicine, perfusion, and of respiratory care. *See* NRS 630.003(1)(a). To further that aim, the legislature delegated to the Nevada State Board of Medical Examiners (Board) the responsibility of determining initial and continuing competency. *See* NRS 630.003(1)(b).

It is therefore the statutory responsibility of the Board to monitor the continuing competency of physicians and physician assistants licensed in the State of Nevada. *See generally* NRS 630.003. The Board accomplishes this through its investigation and prosecution of disciplinary actions against those licensees. *See* NRS 630.311. In determining the continued competency of its licensees, the Board has a statutory scheme that sets out the ground for initiating

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disciplinary action against a licensee. *See* NRS 630.301 et seq. The Board is required to enforce the provisions of NRS Chapter 630, and NAC 630 (collectively, the Medical Practice Act or MPA). *See* NRS 630.003. If the IC of the Board determines that there is a reasonable basis to file a complaint, or that any violation of the MPA has occurred, a formal complaint (Complaint) may be brought against a licensee.

Here, on May 8, 2023, the IC filed a formal Complaint against Respondent, alleging one (1) count of violation of NRS 630.306(1)(b)(3). The language of the statute specifically provides that "engaging in any conduct which is a violation of a provision of chapter 369 of NRS, or a regulation adopted by the State Board of Pharmacy pursuant thereto, that is applicable to a licensee who is a practitioner" constitutes grounds of initiating disciplinary action.

Respondent has now filed a motion to dismiss the Complaint pursuant to NRS 622A.360(2)(e). However, Respondent does not argue that the formal Complaint fails to state facts which, if true, would form a sufficient basis for discipline. In fact, Respondent does not dispute that he entered into a stipulation and order with the Pharmacy Board, wherein he was found to have violated various provisions of NRS 369. *See Respondent's Answer* at 1:20-27. Instead, Respondent uses his motion to dismiss to bring forth several statutorily impermissible arguments, all of which lack merit. The assertions made in the Respondent's motion are not supported by Nevada law or case precedent. Respondent fails on each and every one of his arguments.

II. ARGUMENT

A. Respondent's Motion is Not Allowed Pursuant to NRS 622A.360.

The types of prehearing motions that may be brought in administrative proceedings such as this are limited. Specifically, NRS 622A.360(2) states:

> A party may file *only* the following prehearing motions:
>
> (a) A motion requesting a continuance or an extension of time.
> (b) A motion requesting, for good cause, the recusal of the hearing officer, a member of the hearing panel or a member of the regulatory body from participation in the case.
> (c) A motion requesting the separation of consolidated cases.
> (d) A motion requesting a more definite statement regarding the allegations in the charging document on the ground that there is

> not enough information in the charging document to formulate a defense.
> (e) *A motion requesting dismissal of the charging document for failure to state facts which, if true, would form a sufficient basis for discipline.*
> (f) With leave of the regulatory body or hearing panel or officer, any other motion requesting appropriate action or relief before the date of the hearing.

(Emphases added.) In setting forth such a list, the Legislature has excluded other prehearing motions. *See Galloway v. Truesdell*, 83 Nev. 13, 26, 422 P.2d 237, 246 (1967) (recognizing Nevada's consistent application of the maxim "the expression of one thing is the exclusion of another").

Subsection (e) of NRS 622A.360(2) sets forth the sole basis on which a motion to dismiss at this stage of the proceedings can be brought, namely, if it asserts that the complaint fails to set forth facts that, if true, would not constitute a basis for discipline. Respondent's motion, despite explicitly being brought pursuant to NRS 622A.360(2), is not based on such an assertion. Respondent does not argue anywhere in his motion that the formal Complaint failed to set forth facts that, if true, would not constitute a basis for discipline. Instead, Respondent argues that the formal Complaint should be dismissed for violating Respondent's due process rights; specifically, for an alleged violation of NRS 630.311, and/or that laches bars proceeding on the Complaint. Respondent's motion is not proper under NRS 622A.360(2)(e) and fails on this basis alone.

Due process attaches upon the filing of the formal complaint, *see Sarfo*, 134 Nev. 709, 429 P.3d 650, and thus arguments regarding proceedings prior to the filing of the complaint are unavailing. Additionally, "it is the opportunity to prepare a defense that defines due process" in an administrative proceeding. *Dutchess Bus. Servs., Inc. v. Nevada State Bd. of Pharmacy*, 124 Nev. 701, 712, 191 P.3d 1159, 1167 (2008) (citing *Nevada State Apprenticeship Council v. Joint Apprenticeship & Training Comm.*, 94 Nev. 763, 765, 587 P.2d 1315, 1317 (1978)). Thus, a process that ensures that a respondent is apprised of the charges against him and the factual bases underlying them, and in which the administrative body follows its established procedural guidelines, provides the required due process. *See id.* at 711-12, 191 P.3d at 1166-67. These authorities recognize that due process must be applied as an administrative matter proceeds after the filing of the complaint, and thus a motion to dismiss at this juncture is improper.

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Further, Respondent did not request leave pursuant to NRS 622A.360(2)(f), either prior to filing the motion or in the motion itself. However, even if Respondent had properly requested such leave, the authorities discussed above make clear that the relief he seeks is not appropriate at this stage of the proceeding. Because Respondent's motion to dismiss is procedurally impermissible, it should be denied.

B. Even if Respondent's Motion Were Permitted, it Lacks Merit.

1. The IC Did Not Violate NRS 630.311

Respondent first argues that the Board failed to follow NRS 630.311(1), thus violating Respondent's due process rights and rendering the formal Complaint against Respondent void. *Respondent's Motion*, at 14:12-15:8. Per NRS 630.311(1), a committee designated by the Board shall review each complaint and conduct an investigation to determine if there is a reasonable basis for the complaint. Further, the committee must be composed of at least three members of the Board, at least one of whom is not a physician. *Id.*

Respondent's motion to dismiss does not provide any support for its allegation that the Board or the IC violated NRS 630.311(1), other than vaguely referring to a two-person panel convened as the Investigative Committee. *See Respondent's Motion* at 14:27-15:8. Possibly Respondent refers to the IC's formal Complaint, which stated in footnote one that "[t]he 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 Bret W. Frey, M.D., and Col. Eric D. Wade, USAF (Ret.)." *See Complaint* at 1. However, this footnote was the result of an inadvertent clerical error and should have included the third member of the Investigative Committee, Chowdhury H. Ahsan, M.D., Ph.D, FACC. After discovery of this error, an Errata to Complaint was filed by the IC, correcting this clerical error. *See Errata to Complaint.* This is corroborated by Exhibit F to Respondent's own motion to dismiss. The summary reports from the Investigative Committee meetings list three members for each IC meeting between November 2021 and February 2023.

Respondent also claims, without actually citing to any evidence, that "there is plain evidence . . . that only two (2) members of the Investigative Committee reviewed this matter . . . ."

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Respondent's Motion at 16:28-17:3. From this assertion, Respondent argues that this matter was not given full and fair consideration by a properly convened Investigative Committee. *Id.* at 16:28-17:1. While NRS 630.311 requires an Investigative Committee to be composed of at least three members of the Board, this statute is silent as to how many Investigative Committee members must be present when meeting to review and/or investigate a complaint. *See* NRS 630.311(1). In fact, NRS 630.100(3) states that "a majority of the Board or of any committee or panel appointed by the Board constitutes a quorum. If there is a quorum, a vote of the majority of the members present is all that is necessary to transact any business before the Board or the committee or panel appointed by the Board." In other words, given that Investigative Committees are generally composed of three members total, two members of an Investigative Committee may vote to authorize the filing of a complaint.

The Investigative Committee, at the time the formal Complaint against Respondent was authorized for filing, was composed of three Board members, as required by NRS 630.311(3). Respondent's due process rights were followed and this Complaint should not be rendered void.

2. The Formal Complaint is Not Barred by the Doctrine of Laches.

a. Laches is Not Available Because Respondent Has a Full and Adequate Remedy at Law and This is an Action to Enforce the Public's Rights

Respondent also argues that the IC's formal Complaint is barred by the doctrine of laches. However, laches is not a defense available to Respondent in this proceeding, for two reasons. First, laches is an equitable doctrine, *Carson City v. Price*, 113 Nev. 409, 412, 934 P.2d 1042, 1043 (1997), and "Nevada recognizes that equitable remedies are generally not available where the plaintiff has a full and adequate remedy at law." *Korte Constr. Co. State ex rel. Bd. of Regents*, 137 Nev. Adv. Op. No. 37, 492 P.3d 540, 541 (2021). Respondent will have "every opportunity afforded under the law to defend, including notice of the charges and a formal hearing." *See Jones v. Nev. Comm'n on Judicial Discipline*, 130 Nev. 99, 106, 318 P.3d 1078, 1083 (2014) (describing the due process right to which the judge in that case, against whom discipline was pending, would be entitled to once a formal statement of charges was filed); *see also Sarfo v. Bd. of Med. Exam'rs*, 134 Nev. 709, 429 P.3d 650 (2018) (physician's due process

rights attach upon the filing of the formal complaint). Because Respondent has received notice of the charges against him, will have the opportunity to review and challenge all documents and witnesses on which the IC will rely in this matter, and have his rights observed at all stages of the disciplinary process, *see* NRS 630.339-.358, he has a full and adequate remedy at law, and the equitable remedy of laches is therefore not available to him here.

Second, laches is unavailable to hinder proceedings intended to protect the public, like the instant matter, *see* NRS 630.003, as opposed to an action by a private party seeking damages. *See also* NRS 622.080 (stating that all regulatory bodies in NRS Title 54 "shall carry out and enforce the provisions of this title for the protection and benefit of the public"). In *State v. Rosenthal*, the Court considered the application of laches in an administrative, but non-disciplinary, matter. 107 Nev. 772, 819 P.2d 1296 (1991). The Nevada Gaming Commission added Frank Rosenthal to its List of Excluded Persons (often referred to as the "Black Book") nine (9) years after he was first nominated for the list. *Id.* at 774, 819 P.2d at 1298. Rosenthal argued, in part, that the Commission's action was barred by laches. The parties disputed whether laches applied to the government, but the court did not decide the issue because Rosenthal failed to show all required elements of laches. *Id.* at 777-78, 819 P.2d at 1300-01. *But see Ching v. State Bar of Nev.*, 111 Nev. 779, 783, 895 P.2d 646, 648-49 (1995) (stating, with regard to disciplined attorney's "concerns about the passage of 100 years before the commencement of disciplinary proceedings, if sufficient time has elapsed, the equitable doctrine of laches might apply to preclude disciplinary proceedings").

Other states have concluded that "the doctrine of laches does not apply to governmental entities absent extraordinary circumstances, because laches could impair the functioning of the government, which, in turn, would adversely affect the public." *Chisem v. McCarthy*, 24 N.E.3d 877, 884 (Ill. Ct. App. 2014); *see also Wang v. Board of Regis'n in Med.*, 537 N.E.2d 1216, 1220 (Mass. 1989) ("Laches is not generally a bar where a public right is being enforced."); *Stein v. State Psych. Exam'g Bd.*, 668 N.W.2d 112, 117 (Wis. Ct. App. 2003) ("laches is not available in any proceeding brought by the State in its sovereign capacity to protect a public right").

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In addressing an assertion of laches in a similar proceeding involving the Medical Board of California, the California Court of Appeal noted that, similar to the Nevada Legislature, the California Legislature declined to place a statute of limitations on the Board's pursuit of discipline, as "[t]here is without a doubt a realization on the part of the Legislature that administrative agencies such as the Medical Board take action for the public welfare rather than for their own financial gain, and should not be hampered by time limits in the execution of their duty to take protective remedial action." *Fahmy v. Med. Bd. of Cal.*, 45 Cal.Rptr.2d 486, 489-90 (Ct. App. 1995).

Similarly, in Nevada, the "intent of the legislature is the controlling factor" in statutory interpretation. *State, Dep't of Mtr. Vehicles v. McGuire*, 108 Nev. 182, 184, 827 P.2d 821, 822 (1992). When the language of a statute is clear on its face, its intention must be deduced from such language. *Id.* The purpose of NRS Chapter 630 to protect the public is clear, *see* NRS 630.003, and the Nevada Legislature's decision not to include a statute of limitations for disciplinary actions is deemed purposeful. *See City of Boulder v. General Sales Drivers, Delivery Drivers & Helpers*, 101 Nev. 117, 118–19, 694 P.2d 498, 500 (1985) ("It is presumed that in enacting a statute the legislature acts with full knowledge of existing statutes relating to the same subject."). Similarly, "when a statute's language is clear and unambiguous, the apparent intent must be given effect, as there is no room for construction." *Edgington v. Edgington*, 119 Nev. 577, 582–83, 80 P.3d 1282, 1286 (2003). Further, "[s]tatutes with a protective purpose should be liberally construed in order to effectuate the benefits intended to be obtained." *Id.* at 583, 80 P.3d at 1287.

In his motion to dismiss, Respondent argues that there was no interest in protecting the public on the part of the government when these proceedings were initiated. *See Respondent's Motion* at 19:18-28. Here, as alleged in the formal Complaint, Respondent entered into a stipulation with the Pharmacy Board, whereby he did not contest allegations that he violated NRS 639 and acknowledged that the Pharmacy Board could present evidence to establish a factual basis for these allegations and violations of prescribing statutes and regulations. *See Complaint* at 2:7-11. This conduct in turn violated NRS 630.306(1)(b)(3). The Board is delegated the power

and duty to determine the continuing competence of physicians, for the protection and benefit of the public. *See* NRS 630.003(1)(b). Given that Respondent violated several statutory provisions pertaining to his role as practitioner, the public is protected and benefited by the Board's actions in this matter.

Therefore, laches should not hinder the pursuit of the public's interests in this matter, and Respondent has failed to demonstrate that the circumstances of this case warrant a departure from this general rule.

b. Respondent Fails to Demonstrate the Requirements of Laches.

Finally, even if the motion were proper and laches available, Respondent would need to show more than just the passage of time, but also that he has been prejudiced by the delay. *Price*, 113 Nev. at 412, 934 P.2d at 1043 ("[L]aches is more than a mere delay in seeking to enforce one's rights; it is a delay that works to the disadvantage of another."); *Memory Gardens of L.V. v. Pet Ponderosa Mem'l Gardens,* 88 Nev. 1, 5, 492 P.2d 123, 125 (1972) ("[A] delay not causing actual prejudice does not amount to laches. The alleged prejudice cannot be prospective or illusory."). "The condition of the party asserting laches must become so changed that the party cannot be restored to its former state." *Home Savings v. Bigelow*, 105 Nev. 494, 496, 779 P.2d 85, 86 (1989). Respondent has not shown—and at this stage of the proceedings cannot show—such prejudice.

Respondent, in his motion, also cites to a passage from an American Law Reports, analyzing a Supreme Court of New Hampshire decision involving an administrative medical license revocation action. *See Respondent's Motion*, at 17:20-18:19 (quoting 51 A.L.R.4th 1147, 10). In that case, the court found that laches could not be imputed merely by the passage of time, but required that the doctor *demonstrate the prejudice caused by the delay, show that the delay affected his ability to defend the charges*, and prove that the delay was caused not by lack of the complainant's awareness of the nature of the conduct, but by the complainant sleeping on his rights. 51 A.L.R.4th 1147, 10 (emphasis added). It is also important to note that in the case analyzed, the New Hampshire medical board filed a complaint against a doctor *nine years* after

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the alleged professional misconduct took place. *See id.* Here, the IC filed a complaint against Respondent less than two years after Respondent was disciplined by the Pharmacy Board.

Respondent argues that he has been prejudiced by the supposed delay in the IC's filing of the formal Complaint. *See Respondent's Motion* at 19:13-15. However, Respondent's assertions of prejudice are hypothetical and speculative. The extraordinary application of laches requires more: "The delay must cause actual prejudice, not alleged prejudice." *Rosenthal*, 107 Nev. at 778, 819 P.2d at 1302. Respondent has not demonstrated actual prejudice caused by any perceived delay.

Further, and more importantly, Respondent has failed to show that any delay affected his ability to defend the charges. He fails to name any specific evidence that he does not have access to because of the passage of time or to name a witness that has actually become unavailable. *See Bash v. Bd. of Med. Practice*, 579 A.2d 1145, 1153 (Del. Super. Ct. 1989) (laches not applicable under similar failure to identify evidence or witnesses lost to time). Even in the A.L.R. cited to by Respondent, the court commented that because the New Hampshire case:

> turned on the credibility of witnesses' testimony, failure to impose a limitation on the time in which such a disciplinary proceeding could be brought significantly increased the problems of proof and increased the danger of false, fraudulent, frivolous, speculative, or uncertain claims. In an aside, the court suggested that the situation would be different in a disciplinary proceeding in which the evidence was ***largely documentary rather than testimonial***, because actions turning on documentary evidence were less likely to be prejudiced by the passage of time.

51 A.L.R.4th 1147, 10 (emphasis added).

Here, this matter does not turn on the credibility of witnesses' testimony, but rather is largely based on documentary evidence. As outlined in the IC's Prehearing Conference Statement, the only witnesses listed are Dr. Kaveh and a Board investigator. *Prehearing Conference Statement*, at 1:15-27. Instead, the primary exhibit the IC will use at a hearing is the Stipulation and Order entered on October 15, 2021. *See id.* at 2. The authenticity of this document is not disputed. Such documentary evidence is less likely to be prejudiced by the passage of less than two (2) years, as opposed to any possible testimonial evidence. Respondent cannot show that any supposed filing delay affected his ability to defend the charges.

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Additionally, Respondent has not shown that his circumstances have changed due to the passage of time. The *Rosenthal* case, 107 Nev. 772, 819 P.2d 1296, is instructive on this issue. Even though the Court in that case found the Gaming Commission's stated reasons for a nine-year delay unpersuasive, it nonetheless concluded that Rosenthal failed to demonstrate that he was actually prejudiced by the delay because he did not show that his position was changed by the delay. *Id.* at 778, 819 P.2d at 1301. Respondent is similarly incapable of showing that his position has been "drastically altered" by the passage of time since the underlying events occurred. *See id.* A hypothetical harm to Respondent's reputation or financial status, if he is adjudicated of the charge, does not affect his legal posture in this case, which is the type of "change in position" contemplated by *Rosenthal* and other laches cases. The charge against Respondent does not appear to be affected by the passage of time, that is, he is in essentially the same legal position as if the case had been filed earlier.[1]

Respondent's additional assertions are unavailing. To the extent Respondent argues that his rights to due process have been breached, it should be noted that such due process rights attached at the time the formal Complaint was filed, *see Sarfo*, 134 Nev. 709, 429 P.3d 650, and as noted above, Respondent's due process rights will continue to be observed.

3. Respondent is Not Being Treated Differently Than Other Providers

Respondent also claims several times in his motion to dismiss that he has been treated differently than other providers and has been singled out. Respondent claims that "there have been no straight 'reciprocal discipline' complaints filed against any medical doctor pursuant to NRS 630.306(1)(b)(3)," and that "[a]ll publicly available complaints citing NRS 630.306(1)(b)(3) were coupled with separate and distinct bases for Medical Board discipline." *Respondent's Motion* at 13. Respondent further claims that "he can prove without a doubt, that he is the first medical doctor to have a complaint based solely upon NRS 630.306(1)(b)(3). *Id.* at 14.

/ / /

[1] Because Respondent has not demonstrated prejudice, laches does not apply. *See, e.g.*, *Price*, 113 Nev. at 412, 934 P.2d at 1043. Nonetheless, the IC also notes that it endeavors to file formal Complaints, where warranted, as soon as possible after the review process is complete; that the investigation itself was not instantaneous, i.e., this case was one of thousands processed by the Board between 2020 and 2023. The IC asserts that the time between the close of the investigation and the filing of the formal Complaint was reasonable.

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Respondent appears to claim that these supposed instances of disparate treatment constitute a due process violation. *See id.* at 17:14-16.

Although not explicitly stated as such, Respondent appears to make a claim of selective prosecution. Under Nevada law, a defendant bears a heavy burden to establish at least a prima facie claim of selective or discriminatory prosecution whereby he "must show that a public officer enforced a law or policy in a manner that had a discriminatory effect, and that such enforcement was motivated by a discriminatory purpose." *See Salaiscooper v. Eight Jud. Dist. Ct. ex rel. County of Clark*, 117 Nev. 892, 903, 34 P.3d 509, 517 (2001). To prove discriminatory effect, a defendant must show that others similarly situated have not been prosecuted for the same conduct forming the basis of the charge against him. *Id.* To show a discriminatory purpose, the defendant must show "that a public administrator chose a particular course of action, at least in part, because of its adverse effects upon a particular group." *Id.*

Further, "the mere showing of selective enforcement of a statute, without more, is not constitutionally impermissible." *Williams v. State*, 393 So. 2d 492, 494 (Ala. Crim. App. 1981) (*citing Oyler v. Boles*, 368 U.S. 448 (1962) for the proposition that the conscious exercise of some selectivity in enforcement is not in itself a constitutional violation; and, even though statistics might imply a policy of selective enforcement, it remains that the selection must be deliberately based upon an unjustifiable standard such as race, religion, or other arbitrary classification).

First, Respondent has not shown discriminatory effect. Respondent's claim that he is the first medical doctor to have a complaint based solely upon NRS 630.306(1)(b)(3) is patently false.

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A simple search of Board's website shows that, since 2020, at least six (6) complaints[2] based solely upon NRS 630.306(1)(b)(3) have been filed against medical doctors:

Board of Pharmacy Action	Board of Medical Examiners Action	Case No.	NRS Violations Alleged
N/A	11/4/2020	20-19197-1	NRS 630.306(1)(b)(3) – one count
N/A[3]	11/23/2020	20-12252-1	NRS 630.306(1)(b)(3) – one count
6/10/2020	2/12/2021	21-25351-1	NRS 630.306(1)(b)(3) – one count
6/18/2019	8/5/2021	21-34603-1	NRS 630.306(1)(b)(3) – one count
10/9/2019	10/8/2021	21-8144-1	NRS 630.306(1)(b)(3) – one count
9/4/2019	7/27/2022	22-38761-1	NRS 630.306(1)(b)(3) – one count

All complaints listed above are publicly posted on the Board's website under the Public Filings section[4]. Contrary to Respondent's specious assertions, other similarly situated medical doctors have been prosecuted for the same conduct forming the basis of the charge against Respondent (i.e., violation of a Pharmacy Board statute).

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[2] The following list is not necessarily inclusive and is being provided as an example to show that Respondent is not being singled out.

[3] Case Nos. 20-19197-1 and 20-12252-1 do not involve underlying Pharmacy Board disciplinary actions, but still reflect that complaints were filed against medical doctors alleging just one violation of NRS 630.306(1)(b)(3).

[4] All Complaints referenced can be found at the following links:
https://medboard.nv.gov/Resources/Public/2020/Settlement_Agreement_and_Order_-_Bernard_Addo-Quaye,_MD_-_Case_No_20-19197-1/
https://medboard.nv.gov/Resources/Public/2020/First_Amended_Complaint_-_Victor_Bruce,_MD_-_Case_No_20-12252-1/
https://medboard.nv.gov/Resources/Public/2021/Complaint_-_Kristin_Hestdalen,_MD_-_Case_No_21-25351-1/
https://medboard.nv.gov/Resources/Public/2021/Complaint_-_Roger_Estevez,_MD_-_Case_No_21-34603-1/
https://medboard.nv.gov/Resources/Public/2021/Complaint_-_Beraldo_Vazquez-Correa,_MD_-_Case_No_21-8144-1/
https://medboard.nv.gov/Resources/Public/2022/Complaint_-_Christopher_Nevarez,_MD_-_Case_No_22-38761-1/

Second, Respondent has not shown and cannot show that the IC filed the formal Complaint because of its adverse effect on a particular group Respondent may belong to. He is far from the first medical doctor to receive a complaint based on an alleged violation of NRS 630.306(1)(b)(3). Respondent has not provided any other evidence, either circumstantial or direct, proving he was selected for prosecution based upon some unjustifiable standard such as race, religion, or other arbitrary classification.

There is nothing in the record which supports a prima facie showing that Respondent is being selectively prosecuted or otherwise "singled out," nor can the Respondent produce any evidence that demonstrates this claim. Respondent's assertions are completely without merit and demonstrate a disregard for factual accuracy in the interpretation of the law and the administrative process as a whole. Respondent's Motion to Dismiss must be denied.

III. CONCLUSION

For the foregoing reasons, Respondent's motion should be denied.

DATED this 19th day of September, 2023.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

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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 September, 2023, I served a file-stamped copy of the foregoing **INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS' OPPOSITION TO RESPONDENT'S PRE-HEARING MOTION TO DISMISS** via U.S. Certified Mail and electronic mail to the following parties:

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Tracking No.: 9171 9690 0935 0241 5571 17

A copy of the same was also sent by U.S. Regular Mail and electronic mail to:

NANCY L. MOSS GHUSN, ESQ.
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Hearing Officer

DATED this 19th day of September, 2023.

MERCEDES FUENTES
Legal Assistant
Nevada State Board of Medical Examiners

EXHIBIT K

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FILED

SEP 28 2023

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: SASSAN KAVEH, M.D., Respondent.	CASE NO. 23-10414-1 **SASSAN KAVEH, M.D.'S REPLY IN SUPPORT OF PRE-HEARING MOTION TO DISMISS** **[Oral Argument Requested on the Record]**

SASSAN KAVEH, M.D. ("Dr. Kaveh"), by and through his counsel LEWIS BRISBOIS BISGAARD & SMITH, LLP hereby submits his Reply in Support of Pre-Hearing Motion to Dismiss pursuant to NRS 622A.360(2)(e).

DATED: September 25, 2023

Respectfully submitted,

MELANIE L. THOMAS
LEWIS BRISBOIS BISGAARD & SMITH LLP

/s/ Melanie L. Thomas
By: _____
Attorneys for Sassan Kaveh, M.D.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

The Nevada State Board of Medical Examiners' ("Medical Board") response to Dr. Kaveh's Motion is shocking and only amplifies the very valid concerns about the propriety of these proceedings. The Medical Board filed an errata *after* Dr. Kaveh filed the instant Motion, seeking to correct, cure, and minimize its misdeeds as if that were to resolve the issues of fairness and transparency. Instead, the Medical Board has highlighted these concerns with a litany of statements that undermine the credibility and propriety of these proceedings, including that:

- Dr. Kaveh is not entitled to due process until *after* the Medical Board files its Complaint.[1]
- The entire three-member Investigative Committee is not required to meet and vote to pursue public discipline.
- The Medical Board can discriminately and subjectively pursue certain practitioners without violating their due process rights.

The Medical Board relies on dissimilar and inapplicable case law to deprive Dr. Kaveh of his due process rights, when the glaring and undeniable facts remain:

- **The Medical Board initiated this proceeding against Dr. Kaveh as the original complainant in violation of NRS 630.307;**
- **The Medical Board then presented the matter to the Medical Board's own (questionably formed) Investigative Committee so that it could serve as the "grand jury" over the proceeding it unilaterally initiated in violation of NRS 630.307;**

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[1] *See* Opposition, at 3:18 ("Due process attaches upon the filing of the formal complaint[.]"); 3:26-28 ("These authorities recognize that due process must be applied as an administrative matter proceeds after the filing of the complaint"); 10:13-16 ("To the extent Respondent argues that his rights to due process have been breached, it should be noted that such due process rights attached at the time the formal Complaint was filed, *see Sarfo,* 134 Nev. 709,429 P.3d 650, and as noted above, Respondent's due process rights will continue to be observed.");

- **Unsurprising, the IC endorsed the unilaterally initiated Medical Board complaint in violation of NRS 630.307;**
- **So that that the Medical Board can now prosecute the unilaterally initiated complaint before the Medical Board judge and Medical Board "jury" (*i.e.*, other Medical Board members).**

We are in America, not China, not Russia, also not North Korea. The first twenty Medical Board requests for information pulled on the Firm server **all** contain language missing from Dr. Kaveh's letter:

> We have received information and a complaint regarding your medical treatment of the above named patient. The complaint alleges your care and treatment of patient may have fallen below the standard of care.

See Twenty Requests for Information to Medical Providers from Nevada State Board of Medical Examiners, at 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, 37, 39. **(Exhibit A)**; compare Request for Information to Dr. Kaveh from Nevada State Board of Medical Examiners:

> Dear Dr. Kaveh,
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> We have received information that you entered into an agreed Stipulation and Order with the Nevada State Board of Pharmacy (Pharmacy Board) on October 1, 2021 that resulted in formal disciplinary action by the Pharmacy Board.

(Exhibit B). Perhaps, this is the "selective prosecution" that the Medical Board refers to in its Opposition. "To prove discriminatory effect, a defendant must show that others similarly situated have not been prosecuted for the same conduct forming the basis of the charge against him." *Id.*, at 11:8-10. **"Exhibit A"** evidences twenty instances where the Medical Board has served requests for information, based on complaints by a member of the public. Defense counsel is unaware of any other instance whether the Medical Board unilaterally initiates action before its IC without an NRS 630.307-compliance complaint.

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The Medical Board has violated the Nevada Revised States in initiating and maintaining this action to the undeniable prejudice of Dr. Kaveh, a dues-paying member whom is entitled to procedural and substantive due process but has been denied both. It is understandably concerning to members of mandatory professional associations like these State licensing boards, that their livelihood and property interests can be interfered with by persons outside the immediate review of courts of law, through conduct at secret meetings. If the Medical Board's public policy and purpose is to protect the public, who protects the public and persons similarly situated from the Medical Board itself? Dr. Kaveh expects the Medical Board to follows its own procedure and the laws governing its creation, existence, and operation. This did not occur in this case, and as a result the only appropriate outcome is complete dismissal. Otherwise, the Medical Board has created a situation desperately needing top down review and exposure. The Medical Board disingenuously seeks to preclude Dr. Kaveh from discovering the facts related to its improper exercise of authority and procedure, including the now-pending motion in limine to preclude Dr. Kaveh from calling fact witnesses to testify at the hearing. The Medical Board is sure going to significant lengths to harm Dr. Kaveh. This must stop immediately, and this action dismissed.

II. STATEMENT OF FACTS

A. MEDICAL BOARD NON-COMPLIANCE[2]

Since Dr. Kaveh's voluntary reporting of the stipulation for public reprimand from the Pharmacy Board to the Medical Board on November 10, 2021 and prior to the filing of the Complaint on May 8, 2023:

1) The Investigative Committee of the Medical Board met fourteen (14) times since Dr. Kaveh provided notice of his settlement with the Pharmacy Board:

- November 10, 2021
- November 19, 2021
- February 9, 2022
- February 18, 2022
- May 31, 2022
- August 11, 2022
- August 19, 2022
- August 24, 2022
- November 18, 2022
- February 8, 2023
- February 9, 2023
- February 17, 2023

[2] Note: The Facts section of the original Motion is set forth again, with new facts in **bold**.

- Mav 11. 2022
- November 9. 2022

See Combined Summary Reports of Investigative Committees of the Medical Board.

2) None of Summary Reports of the Investigative Committee meetings listed Bret W. Frey, M.D. and Col. Eric D. Wade, USAF (Ret.) as the only two members in attendance.

3) All of the summary reports from the Investigative Committee meetings listed three (3) members.

4) Dr. Kaveh served his Pre-Hearing Motion to Dismiss (with exhibits) on Medical Board counsel and the Hearing Officer via email on September 5, 2023.

5) Medical Board counsel's paralegal, Mercedes Fuentes, then served a file-stamped copy of Dr. Kaveh's Motion without the exhibits (without explanation) on the Hearing Officer.[3]

6) On September 8, 2023, Deputy General Counsel William P. Shogren, Esq. filed an Errata to Complaint three days after the instant Motion was filed.

> thereto. An inadvertent clerical error was discovered on page 1, footnote 1, and should read as follows in its entirety:
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> "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 Bret W. Frey, M.D., Chair, Chowdhury H. Ahsan, M.D., Ph.D., FACC, and Col. Eric D. Wade, USAF (Ret.)."

See Errata.

7) Based off the Errata, this Investigative Committee could have *only* met on either: November 19, 2021, February 18, 2022, or May 31, 2022.

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[3] Once confronted with this issue, Ms. Fuentes reattached the exhibits to Dr. Kaveh's Motion and served the complete pleading on the Hearing Officer.

B. FACTUAL BACKGROUND[4]

Upon the advice of counsel, Dr. Kaveh entered into a Stipulation with the Pharmacy Board on October 15, 2021, wherein he reluctantly pled no contest based on an understanding that a formal hearing would likely result in more significant discipline and professional harm. Dr. Kaveh complied with all terms of the Stipulation.

In reviewing Attorney General Opinions as far back as the year 2000, there are only two opinions dealing with the Pharmacy Board. There are no Nevada cases or Attorney General opinions related to the matters and laws raised in the Pharmacy Board.[5]

On November 10, 2021, Dr. Kaveh notified the Medical Board of his Stipulation with the Pharmacy Board.

On January 10, 2022, the Medical Board served Dr. Kaveh with a request for information regarding the Pharmacy Board Stipulation. **(Exhibit B). The correspondence cautioned:**

> 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(3).

Id. **Unlike all other Medical Board requests for information that counsel undersigned has ever reviewed, this particular request was not initiated by the Medical Board's receipt of a complaint pursuant to NRS 630.307:**

> **NRS 630.307 General requirements for filing complaint; medical facilities and societies required to report certain information concerning privileges and disciplinary action; administrative fine for failure to report; clerk of court required to report certain information concerning court actions; retention of complaints by Board.**
> 1. Except as otherwise provided in subsection 2, any person may file

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[4] This section has been synthesized from the Motion, to include facts salient to Reply. New facts are in **bold**.

[5] "According to Nevada Revised Statute (NRS) 228.150, the Attorney General is responsible for providing formal legal opinions to public officials specified within the law, including [...] the heads of state boards [...]. Only these officials can request a formal Attorney General Opinion. These opinions are intended for use by public officials in the performance of their duties, but they are issued for publication so that they can be cited for their persuasive authority in court cases and other legal proceedings." *See* Official Attorney General Opinions, available at *https://ag.nv.gov/Publications/Opinions/* [last accessed Feb. 28, 2022].

with the Board a complaint against a physician [...] on a form provided by the Board. The form may be submitted in writing or electronically. If a complaint is submitted anonymously, the Board may accept the complaint but may refuse to consider the complaint if the lack of the identity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.

2. Any licensee, medical school or medical facility that becomes aware that a person practicing medicine [...] in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

3. Except as otherwise provided in subsection 4, any hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board any change in the privileges of a physician, [...] to practice while the physician [...] is under investigation and the outcome of any disciplinary action taken by that facility or society against the physician [...] concerning the care of a patient or the competency of the physician [...] within 30 days after the change in privileges is made or disciplinary action is taken.

4. A hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board within 5 days after a change in the privileges of a physician [...] to practice that is based on:

(a) An investigation of the mental, medical or psychological competency of the physician [...]; or

(b) Suspected or alleged substance abuse in any form by the physician [...].

5. The Board shall report any failure to comply with subsection 3 or 4 by a hospital, clinic or other medical facility licensed in this State to the Division of Public and Behavioral Health of the Department of Health and Human Services. If, after a hearing, the Division of Public and Behavioral Health determines that any such facility or society failed to comply with the requirements of subsection 3 or 4, the Division may impose an administrative fine of not more than $10,000 against the facility or society for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

6. The clerk of every court shall report to the Board any finding, judgment or other determination of the court that a physician [...]:

(a) Is mentally ill;

(b) Is mentally incompetent;

(c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;

(d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or

(e) Is liable for damages for malpractice or negligence,

Ê within 45 days after such a finding, judgment or determination is made.

7. The Board shall retain all complaints filed with the Board pursuant to this section for at least 10 years, including, without limitation, any complaints not acted upon.

NRS 630.307. The request for information was based solely off the Medical Board's notification by Dr. Kaveh.

> Dear Dr. Kaveh,
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> We have received information that you entered into an agreed Stipulation and Order with the Nevada State Board of Pharmacy (Pharmacy Board) on October 1, 2021 that resulted in formal disciplinary action by the Pharmacy Board.

(Exhibit B).

On March 7, 2022, Dr. Kaveh submitted a response to the Board's Request for Information explaining **(everything set forth in this subsection as it appears in the Motion)**.

On May 8, 2023, the Medical Board filed the instant Complaint against Dr. Kaveh, **initiating "proceedings intended to protect the public."**[6]

On September 5, 2023, the Medical Board disclosed its evidence and witnesses, limited to Dr. Kaveh, the Board investigator, with all exhibits consisting of documents and/or other materials available to the Medical Board no later than November 10, 2021.[7]

According to the Medical Board, everything needed to prove its case against Dr. Kaveh was available on October 15, 2021.

> Here, this matter does not turn on the credibility of witnesses' testimony, but rather is largely based on documentary evidence. As outlined in the IC's Prehearing Conference Statement, the only witnesses listed are Dr. Kaveh and a Board investigator. *Prehearing Conference Statement*, at 1:15-27. Instead, the primary exhibit the IC will use at a hearing is the Stipulation and Order entered on October 15, 2021. *See id.* at 2. The authenticity of this document

***Id.*, at 9:21-25.**

> [1] Because Respondent has not demonstrated prejudice, laches does not apply. *See, e.g., Price*, 113 Nev. at 412, 934 P.2d at 1043. Nonetheless, the IC also notes that it endeavors to file formal Complaints, where warranted, as soon as possible after the review process is complete; that the investigation itself was not instantaneous, i.e., this case was one of thousands processed by the Board between 2020 and 2023. The IC asserts that the time between the close of the investigation and the filing of the formal Complaint was reasonable.

***Id.*, at 10, n.1.**

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[6] *See* Opposition, at 6:6.
[7] Remaining exhibits are pleadings generated in *this* action.

C. MEDICAL BOARD'S DISPARATE TREATMENT AND DELAY REGARDING DR. KAVEH

Dr. Kaveh's counsel performed a search of publicly available records to identify whether the Medical Board has filed similar complaints for "reciprocal discipline" and the attendant timeline of those cases, locating *only* four prior complaints citing "NRS 630.306(1)(b)(3)" as *a* basis for the action all of which have separate statutory counts charged against the medical doctor. There **were** no publicly available complaints citing *only* NRS 630.306(1)(b)(3) as the *sole* basis for discipline available **using "NRS 630.306" as the search term, either through Google or the Medical Board's own internal sitewide search option. However, the Medical Board has since referenced six additional complaints, distinguishable from those cited by Dr. Kaveh. Two cases had no contemporaneous Pharmacy Board component, two cases related to physicians writing 189-263 separate controlled substance prescriptions without a valid controlled substance registration, another related to using another provider's controlled substance registration to write prescriptions, and finally enabling office personnel to maintain access to dangerous drugs without prescriptions.**[8]

BOP Action	BME Initiated Action	Abbrev. Factual Allegations	NRS violations alleged
09/05/18	10/17/18	Case No. 18-8756-1: Respondent used the Prescription Monitoring Program to run an electronic query on 1 October shooter Stephen Paddock on 10/2/17 using multiple different search parameters. Paddock was never Respondent's patient. Respondent provided the resultant information to the Las Vegas Review Journal, and it was then published in an article. The matter proceeded to a full disciplinary hearing before the BOP. The Pharmacy Board issued a stayed revocation of Respondent's certificates of registration with the BOP, and instead placed Respondent on a conditional one year probation.	NRS 630.306(1)(b)(3) NRS 630.301(9) NRS 630.306(1)(r) NRS 630.306(1)(b)(3) NRS 630.301(1)(b)(2) NRS 630.3062(1)(a) NRS 630.306(1)(p) NRS 630.306(1)(c) NRS 630.306(1)(c) NRS 630.3062(1)(a)

[8] *See* Opposition, at 12:1-16.

BOP Action	BME Initiated Action	Abbrev. Factual Allegations	NRS violations alleged
		The BME Complaint followed **42 days later**, setting forth ten (10) separate counts.	
03/06/19	03/21/19	Case No. 19-38366-1: Respondent was the proprietor of an IV hydration company that provided various elective therapies and concierge medical services. It is alleged that Respondent improperly permitted staff to prescribe, order, and possess an inventory of dangerous drugs when he was not present on site; aided and abetted the unauthorized practice of medicine; and, purchased dangerous compounded drugs from a pharmacy not licensed with the Pharmacy Board. The matter was resolved by way of Stipulation and Order with the BOP. Respondent was given a public reprimand and placed on 12 months probation by the BOP. The BME Complaint followed **15 days later**, setting forth five (5) separate counts.	NRS 630.306(1)(b)(3) NRS 630.306(1)(c) NRS 630.306(1)(r) NRS 630.305(1)(e) NRS 630.3062(1)(a)
10/10/18	01/09/19	Case No. 19-33320-1: Respondent was alleged to have aided and abetted the unlawful prescribing of controlled substances, dangerous drugs, including to patients with whom she did not have a bona fide doctor-patient relationship, failing to segregate expired medications from unexpired medications, failure to keep and produce records related to hydroquinone tretinoin and/or juvederm syringes dispensed, and allowing other practitioners to treat her patients and bill Medicaid and/or other commercial health insurance using her NPI (thus representing she performed those services personally). The matter was resolved by way of Stipulation and Order with the BOP. The BME Complaint followed **91 days later**, setting forth four (4) separate counts.	NRS 630.306(1)(b)(3) NRS 630.306(1)(c) NRS 630.305(1)(d) NRS 630.3062(1)(a)
06/05/20	09/08/20	Case No. 20-18832-1: Respondent is alleged to have placed her Nevada medical license in inactive status in May 2009, where it remained at the time of the allegations. The BOP send Respondent a cease and desist letter on 6/5/20 to stop prescribing controlled substances to Nevada patients. On 6/14/20, Respondent surrendered her DEA Certificate of Registration which had allowed her to order, possess, dispense, administer, prescribe, or	NRS 630.306(1)(b)(3) NRS 630.304(1) NRS 630.306(1)(c) NRS 630.306(1)(c) NRS 630.306(1)(c) NRS 630.306(1)(c)

BOP Action	BME Initiated Action	Abbrev. Factual Allegations	NRS violations alleged
		engage in any other activities with controlled substances. The BME alleged that Respondent renewed her licensed to prescribe controlled substances (each renewal period since 2009), therein representing to the BOP that she had an active license issued by the BME. Respondent was alleged to have prescribed controlled substances to four separate Nevada patients. The BME Complaint followed **95 days later**, setting forth six (6) separate counts.	

III. LEGAL ARGUMENT AND ANALYSIS

The overwhelming theme of the Medical Board's Opposition is essentially, "don't worry about all the rules we're breaking over here in our secret meetings, it's fine and you're not prejudiced." There was no complaint to initiate this investigation, the Medical Board initiated it on its own accord. This is not allowed. The Medical Board relies heavily on *Sarfo v. State*, 134 Nev. 709, 429 P.3d 650 (2018), to justify the deprivation of Dr. Kaveh's due process rights. However, the Medical Board knows very well, this case is factually dissimilar to *Sarfo* and deals with an investigation initiated once an initial public complaint had been submitted against the physician. Here, there was no public complaint made to the Medical Board under the circumstances set forth in NRS 630.307. The Medical Board's reliance on *Sarfo* is misplaced:

> In issuing this order, the district court relied on *Hernandez v. Bennett-Haron*, 128 Nev. 580, 287 P.3d 305 (2012), to find that the IC's investigation did not invoke due process protections because the IC "has no authority to adjudicate any legal rights," since it is only "tasked with gathering facts and investigating **whether there is any merit to a complaint filed with the Board** against a physician."

Sarfo, 134 Nev. at 710-11, 429 P.3d 650. **[emphases added]**. The proposition in *Sarfo* is that there are no due process rights to discover the activities of the IC in their secret investigation and meetings, *because* the IC *only* has the authority to gather facts and investigate "whether there is any merit to a complaint filed with the Board." The *Sarfo* decision does not provide that the secret meetings comply with due process where the

Medical Board itself initiates the investigation, and not as a result of public complaint from some outside person that is not a member of the Medical Board's staff or committees. *See* NRS 630.307.

Here, we have the Medical Board serving as the sole complainant, the grand jury, the judge, and the actual jury. As if the IC is going to ever find that a complaint that they initiated for the purposes of convening an IC, for purposes of filing a public complaint, was thereafter meritless!! This is the *exact* due process violation to which Dr. Kaveh is protected, yet—here we are. The Medical Board brushes its own errors and shortcomings under the rug, to improperly pursue Dr. Kaveh.

> **There are two types of complaints that come before the Board: a complaint initially generated by a member of the public** and a formal complaint generated by the IC following the completion of its investigation. *See* NRS 630.311. Upon receipt of **the initial complaint filed by a member of the public against a physician**, the Board must designate an IC to "review each complaint and conduct an investigation to determine if there is a reasonable basis for the complaint." NRS 630.311(1). **The IC has no disciplinary powers and can only file a formal complaint with the Board if it concludes that a complaint from a member of the public has a reasonable basis**. NRS 630.311(2). Once a formal complaint has been filed, the adjudicative process begins, and the physician is provided with notice and an opportunity to be heard at a formal hearing. *See* NRS 630.339. Here, Dr. Sarfo is alleging a due process violation stemming from an initial complaint, not a formal complaint.

Sarfo v. State, 134 Nev. 709, 712, 429 P.3d 650 (2018)[**emphases added**]. *Sarfo* was dealing with a publicly submitted initial complaint, not a scenario like the one Dr. Kaveh is facing—the Medical Board initiated this action entirely on its own, upon Dr. Kaveh's voluntary disclosure of the stipulation with the Pharmacy Board.

> The Nevada Constitution requires that "[n]o person shall be deprived of life, liberty, or property, without due process of law." Nev. Const. art. 1, § 8(5). The district court, relying on *Hernandez v. Bennett-Haron*, 128 Nev. 580, 287 P.3d 305 (2012), found that Dr. Sarfo could not prevail on the merits because due process was not implicated in this matter, **as the IC was merely performing investigatory fact-finding with no power to deprive Dr. Sarfo of his liberty interest**. In *Hernandez*, we determined that the county coroner's fact-finding investigation of whether police officers used excessive force did not implicate due process rights because the county coroner was only tasked with fact-finding and not with adjudicating formal disciplinary proceedings. 128 Nev. at 591-93, 287 P.3d at 313-14. In fact, due process protections "need not be made available in proceedings that merely involve fact-finding or investigatory

> exercises by the government agency." *Id.* at 587, 287 P.3d at 311 (citing *Hannah v. Larche*, 363 U.S. 420, 442, 80 S. Ct. 1502, 4 L. Ed. 2d 1307 (1960)). Here, the IC is tasked with "conduct[ing] an investigation to determine if there is a reasonable basis **for the complaint**." NRS 630.311(1).
>
> Dr. Sarfo challenges the district court's application of *Hernandez*, contending that the IC is distinguishable from a county coroner because the IC, unlike the county coroner, is able to file a formal complaint with the Board. However, NRS 630.352(1) mitigates the due process danger of an entity serving in both an investigatory and adjudicatory role, stating that [a]ny member of the Board, *other than a member of an investigative committee of the Board who participated in any determination regarding a formal complaint in the matter* or any member serving on a panel of the Board at the hearing of the matter, may participate in an adjudication to obtain the final order of the Board.
>
> Thus, the IC fact-finders are statutorily prohibited from participating in the adjudication of any subsequent formal complaint.

Sarfo, 134 Nev. at 712-13, 429 P.3d 650. [**emphases added**]. There was no complaint to initiate the investigative committee activities, the Medical Board very clearly indicated:

> Dear Dr. Kaveh,
>
> We have received information that you entered into an agreed Stipulation and Order with the Nevada State Board of Pharmacy (Pharmacy Board) on October 1, 2021 that resulted in formal disciplinary action by the Pharmacy Board.

See Correspondence dated January 10, 2022. **(Exhibit B)**. The entire Medical Board is disqualified from hearing a case that it initiated without a public complaint, then investigated without proper authority, approved for formal complaint, and now seeks to prosecute and judge.

The *Sarfo* case related to the respondent's actions to discover the complainant *prior* to the filing of a formal complaint. Here, there is no public initiated complaint, just the Medical Board on its own. This is the epitome of selective prosecution. District Court judges are not permitted to initiate their own civil complaints, rule on dispositive motions filed by their adversary, then sit as both the judge and jury at trial—and, they conduct their professional affairs in the sunlight, not in secret. There is a separation of powers for a reason, made even more the evident by the Medical Board's conduct in this case. It would be unbelievable to excuse and ignore the Medical Board's own statutory violations and

disregard them, when allowing it to carry such power and ability to impact the lives of its provider members. The Medical Board's own actions preclude action against Dr. Kaveh, in law and in equity.

A. THE MEDICAL BOARD IS BARRED FROM SEEKING TO IMPOSE RECIPROCAL DISCIPLINE UNDER THE DOCTRINE OF LACHES

The Medical Board completely ignored the specific instances cited by Dr. Kaveh related to prejudicial delay in his Motion, when concluding there has been no prejudice to him. Any belated and untimely reporting to the National Practitioner Data Bank ("NPDB") will harm Dr. Kaveh reputationally and financially in the following ways:

1) As the Medical Board is aware, these claims are often defended under an endorsement or rider to the medical doctor's professional liability insurance policy, with burning limits.

2) Dr. Kaveh has no input or control in the manner in which the Medical Board (or any licensing board) reports professional discipline to the NPDB (including timing, content, etc.).

3) Each time a report is made to the NPDB, a cascade of reporting is triggered to entities where Dr. Kaveh has privileges, other jurisdictions where he is licensed, to explain the report and the factual predicate and defend his standing with those entities.

4) The Medical Board will report this matter to the NPDB in an unnecessarily inflammatory manner that appears to the reader that an additional violation has occurred (when this is purportedly a "reciprocal discipline"), forcing Dr. Kaveh to engage in defensive and expensive letter writing campaigns and appeals to each entity.

5) Dr. Kaveh has already exhausted the majority of coverage available for this incident due to the inflammatory language used in the Pharmacy Board's reporting to the NPDB, and being forced to engage the Pharmacy Board, its counsel, its Board members, and the Nevada Attorney General's Office to attempt to clarify Nevada statutes and his responsibilities thereunder; and now, in his dealings with the Medical Board related to an improperly founded Complaint that was untimely filed without the mandatory Investigative

Committee support.

There is no excuse for the delay where the Medical Board contends that the Pharmacy Board Stipulation itself is the stated basis for, and the only evidence needed for, discipline by the Medical Board.

The integrity of the Medical Board is called into question where it appears that they have deviated from their statutory requirements and customs in singling out a medical doctor, like they have done to Dr. Kaveh. There is no evidence that this matter was given full and fair consideration by a properly convened Investigative Committee, in fact Deputy General Counsel for the Medical Board has implied that only two votes were required to constitute a quorum for voting on whether to proceed with a formal complaint. Were these the same two members that directed the opening of an investigation against Dr. Kaveh in the absence of any public complaints? Or did the whole Medical Board get together to target Dr. Kaveh? Dr. Kaveh is foreclosed from finding out because the Medical Board hides behind NRS 630.311 to protect its secret meetings. However, we do know that no member of the public filed an initial complaint, so any IC convened to investigate a matter that the IC itself initiated is invalid and a concerning power grab by the Medical Board.

When discipline is initiated, the initiating entity must ensure fairness and integrity in those proceedings. When there are secret meetings, convened without the appropriate numbers, seeking to impose discipline in a manner inconsistent with discipline imposed on other medical doctors, there is a due process violation. When that discipline comes woefully later than others even remotely similarly situated, there becomes a laches bar. Given that the Complaint is void and cannot proceed, Dr. Kaveh respectfully requests that the Medical Board be precluded from later re-filing as the laches defense asserted herein only becomes stronger with the additional passage of time. The IC has no disciplinary powers and can only file a formal complaint with the Board **if it concludes that a complaint from a member of the public** has a reasonable basis. NRS 630.311(2). The Pharmacy Board is *not* a member of the public, the Medical Board is *not* a member of the public.

1. **Dr. Kaveh Has A Legally Protected Property Right In His License To Practice Medicine**

This is not in dispute. Dr. Kaveh is entitled to procedural and substantive due process before the Medical Board. He has been denied due process in these proceedings by the impact of the prejudicial delay and the Medical Board's failure to ensure that a valid Investigative Committee was formed to review this case. The Medical Board initiated this action in the absence of a patient care complaint, and solely on the basis of the Pharmacy Board settlement. The Medical Board is taking public action against Dr. Kaveh without predicate authority.

2. **Dr. Kaveh Has Been Denied Due Process By The Medical Board's Failure To Implement Procedural Safeguards.**

Dr. Kaveh's privacy interest in practicing medicine without prejudicial and financially harmful impediments is substantial, and at direct stake in this action. The risk of an erroneous deprivation of this interest through untimely, misleading, and inflammatory reporting to the NPDB and the resultant fallout, can be avoided by applying the laches defense. Dr. Kaveh will not be forced to defend the underlying care *and* at the same time attempt to explain away the significant delay by the Medical Board in seeking to discipline Dr. Kaveh.

Finally with regard to the government's interest in protecting the public as the basis for initiating these disciplinary proceedings, there is no public policy furthered by these proceedings. The Medical Board saw no need to protect the public from Dr. Kaveh during the **five hundred forty-four (544 days)** that it allowed to pass before initiating this "reciprocal" discipline. It is unclear why Dr. Kaveh is being singled out, and speculation only inflames and multiplies these proceedings at this point, but should this matter proceed those answers will be sought using all legal mechanisms available. There was no patient complaint related to this matter. The Medical Board initiated this case on its own accord, outside the stated procedure provided to the public on its own website. Dismissal is required pursuant to NRS 630.311(1) and NRCP 12(c), but necessitated in equity and to

promoted fairness under the doctrine of laches which should operate as a bar to re-filing this action.

IV. CONCLUSION

"The [Medical] Board responds with expediency to complaints against our licensees by conducting fair, complete investigations that result in appropriate action."[9] The Medical Board never received a patient complaint regarding Dr. Kaveh, but instead unilaterally opened its own investigation, which it then submitted to an Investigative Committee that was not formed in compliance with the Nevada Revised Statutes or as a result of its own publicly available procedures. The Medical Board decides whether to initiate public discipline proceedings in secret meetings of the Investigative Committee pursuant to NRS 630.311, which requires the presence of *at least* three (3) members.

Part of the delegation of self-policing authority to administrative bodies requires that these administrative proceedings are not conducted in a manner that is arbitrary and capricious. Where the Medical Board seeks to impose consequential, statutory discipline for alleged statutory non-adherence on its members, there must be assurances that the Medical Board follows the same statutory scheme itself. Dr. Kaveh is entitled to due process, he has not received the same.

It would be inequitable for the Medical Board to punish Dr. Kaveh for violating unclear statutory provisions when the Medical Board itself has failed to comply with statutory provisions governing its conduct.

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[9] *See* Mission Statement (available at https://medboard.nv.gov/About/About/) [last accessed Sept. 5, 2023) [emphasis added].

Therefore, Dr. Kaveh respectfully requests that this case be dismissed in its entirety.

September 25, 2023

LEWIS BRISBOIS BISGAARD & SMITH LLP

By /s/ Melanie L. Thomas
MELANIE L. THOMAS
Nevada Bar No. 12576
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
Melanie.Thomas@lewisbrisbois.com
Attorneys for Sassan Kaveh, M.D.

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of September, 2023, a true and correct copy of **Respondent Sassan Kaveh, M.D.'s Reply in Support of Motion to Dismiss** was sent via electronic mail to the following:

William P. Shogren
Deputy General Counsel
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, NV 89521
shogrenw@medboard.nv.gov

Nancy Moss Ghusn, Esq.
Hearing Officer
NMG416@gmail.com

By /s/ Melanie L. Thomas
An Employee of
LEWIS BRISBOIS BISGAARD & SMITH LLP

EXHIBIT A

NEVADA STATE BOARD OF MEDICAL EXAMINERS

6010 S. Rainbow Blvd., Bldg. A, Ste. 2
Las Vegas, NV 89118

Rachakonda D. Prabhu, M.D.
Board President

Edward O. Cousineau, J.D.
Executive Director

December 26, 2019

[redacted]

RE: BME CASE [redacted]
PATIENT: [redacted]

Dear [redacted]

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 patient may have fallen below the standard of care.

It is alleged:

- [redacted]
- [redacted]

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, as well as complete health care records for the aforesaid patient. Include copies of any imaging, x-ray or other films that were produced during treatment of this patient**. 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 21 calendar days.**

Please return the health care records with the signed Custodian of Records Affidavit, enclosed herewith. If you are not a custodian of the patient records, please indicate where the health care records can be obtained.

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), NRS 630.3062(1)(a) & NAC 630.040.

Respectfully,

Don Andreas
Sr. Investigator
Las Vegas Office

NEVADA STATE BOARD OF MEDICAL EXAMINERS
6010 S. Rainbow Blvd., Bldg. A, Ste. 2
Las Vegas, NV 89118

Rachakonda D. Prabhu, M.D.
Board President

Edward O. Cousineau, J.D.
Executive Director

September 15, 2020

[redacted]

RE: BME CASE #: [redacted]
PATIENT: [redacted]

[redacted]

We have received information and a complaint regarding your medical treatment of the above named patient. The complaint alleges your care and treatment of patient may have fallen below the standard of care.

[redacted]

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, including, as well as complete health care records for the aforesaid patient[s]. Include copies of any imaging, x-ray or other films that were produced during treatment of this patient.** 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 21 calendar days.**

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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).

Respectfully,

Don Andreas
Sr. Investigator
Las Vegas Office

NEVADA STATE BOARD OF MEDICAL EXAMINERS
9600 Gateway Drive
Reno, NV 89521

Rachakonda D. Prabhu, M.D.
Board President

Edward O. Cousineau, J.D.
Executive Director

[redacted]

[redacted]

RE: BME CASE #: [redacted]
PATIENT: [redacted]

[redacted]

We have received information and a complaint regarding your medical treatment of the above named patient. The complaint alleges on or about [redacted] the patient was transported to [redacted]

It is further alleged:

- [redacted]
- [redacted]
- [redacted]

Therefore, your care and treatment of the patient may have fallen below the standard of care.

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, as well as complete health care records for the aforesaid patient. Include copies of any imaging, x-ray or other films that were produced during treatment of this patient.** 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 21 calendar days.**

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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).

Respectfully,

Trent S. Hiett
Investigator

NEVADA STATE BOARD OF MEDICAL EXAMINERS
9600 Gateway Drive
Reno, NV 89521

Rachakonda D. Prabhu, M.D.
Board President

Edward O. Cousineau, J.D.
Executive Director

[redacted]

[redacted]

RE: BME CASE #: [redacted]
PATIENT: [redacted]

[redacted]

We have received information and a complaint regarding your medical treatment of the above named patient. The complaint alleges your treatment and care of the patient may have fallen below the standard of care which may have had an adverse impact on the quality of care rendered to the above named patient.

It is alleged:

[redacted]

It is further alleged:

[redacted]

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, including, as well as complete health care records for the aforesaid patient[s]. Include copies of any imaging, x-ray or other films that were produced during treatment of this patient.** 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 21 calendar days.**

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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 NPMA 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 (b) (2).

Respectfully,

Samantha Hendricks
Investigator

NEVADA STATE BOARD OF MEDICAL EXAMINERS
9600 Gateway Drive
Reno, NV 89521

Rachakonda D. Prabhu, M.D.
Board President

Edward O. Cousineau, J.D.
Executive Director

[redacted]

[redacted]

RE: BME CASE #[redacted]
PATIENT: [redacted]

[redacted]

We have received information and a complaint regarding your medical treatment of the above named patient. The complaint alleges your treatment and care of the patient may have fallen below the standard of care which may have had an adverse impact on the quality of care rendered to the above named patient.

It is alleged:

- [redacted]
- [redacted]
- [redacted]

It is further alleged:

- [redacted]
- [redacted]
- [redacted]

[redacted]

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, including, as well as complete health care records for the aforesaid patient[s]. Include copies of any imaging, x-ray or other films that were produced during treatment of this patient.** 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 21 calendar days.**

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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 (b) (2).

Respectfully,

Samantha Hendricks
Investigator

NEVADA STATE BOARD OF MEDICAL EXAMINERS
6010 S. Rainbow Blvd., Bldg. A, Ste. 2
Las Vegas, NV 89118

Rachakonda D. Prabhu, M.D.
Board President

Edward O. Cousineau, J.D.
Executive Director

[redacted]

RE: BME CASE #[redacted]
PATIENT: [redacted]

[redacted]

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 patient may have fallen below the standard of care.

It is alleged:

[redacted]

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, as well as complete health care and billing records for the aforesaid patient[s]. Include copies of any imaging, x-ray or other films that were produced during treatment of this patient.** 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 21 calendar days.**

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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)(6), NAC 630.040 NRS 630.306(1)(b(2).

Respectfully,



Don Andreas
Sr. Investigator
Las Vegas Office

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

[redacted]

[redacted]

RE: BME CASE #: 2[redacted]
PATIENT: [redacted]

[redacted]

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 patient may have fallen below the standard of care.

It is alleged:

[redacted]

It is further alleged:

[redacted]

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, as well as complete health care records for the aforesaid patient(s). Include copies of any imaging, x-ray or other films that were produced during treatment of this patient.** 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 21 calendar days.**

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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)(2)

Respectfully,

Don Andreas
Sr. Investigator
Las Vegas Office

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

[redacted]

[redacted]

RE: BME CASE #[redacted]
PATIENT: [redacted]

[redacted]

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 patient may have fallen below the standard of care.

It is alleged:

[redacted]

It is further alleged:

[redacted]

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, as well as complete health care records for the aforesaid patient. Include copies of any imaging, x-ray or other films that were produced during treatment of this patient.** Please include any further information you believe would be useful for the Board to make

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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)(2).

Respectfully,

Don Andreas, CMBI
Sr. Investigator
Las Vegas Office

NEVADA STATE BOARD OF MEDICAL EXAMINERS
325 E. Warm Springs Road, Suite 225
Las Vegas, NV 89119

Victor M. Muro, M.D.
Board President

Edward O. Cousineau, J.D.
Executive Director

[redacted]

[redacted]

RE: BME CASE #: [redacted]
PATIENT: [redacted]

[redacted]

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 patient may have fallen below the standard of care.

It is alleged:

[redacted]

It is further alleged:

[redacted]

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).

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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)(2).

Respectfully,

Ryan Swank, Investigator
Nevada State Board of Medical Examiners
Las Vegas Office

NEVADA STATE BOARD OF MEDICAL EXAMINERS
9600 Gateway Drive
Reno, NV 89521

Victor M. Muro, M.D.
Board President

Edward O. Cousineau, J.D.
Executive Director

[redacted]

[redacted]

RE: BME CASE #[redacted]
PATIENT: [redacted]

[redacted]

We have received information and a complaint regarding your medical treatment of the above-named patient. The complaint alleges your treatment and care of the patient may have fallen below the standard of care which may have had an adverse impact on the quality of care rendered to the above-named patient.

It is alleged:

[redacted]

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, including, as well as complete health care records for the aforesaid patient[s]. Include copies of any imaging, x-ray or other films that were produced during treatment of this patient.** 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.**

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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) (2).

Respectfully,

Samantha Hendricks
Investigator

NEVADA STATE BOARD OF MEDICAL EXAMINERS

9600 Gateway Drive
Reno, NV 89521

Victor M. Muro, M.D.
Board President

Edward O. Cousineau, J.D.
Executive Director

[redacted]

[redacted]

RE: BME CASE #: [redacted]7
PATIENT: [redacted]

[redacted]

We have received information and a complaint regarding your medical treatment of the above-named patient. The complaint alleges the patient presented to [redacted] for [redacted]

It is alleged:

- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]

Telephone 775-688-2559 • Fax 775-688-2321 • medboard.nv.gov • nsbme@medboard.nv.gov

[redacted]

Therefore, your treatment and care of the patient may have fallen below the standard of care.

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, including your billing records for the patient and all surgery contracts/informed consents signed by the patient, as well as complete health care records for the aforesaid patient. Include copies of any imaging, x-ray or other films that were produced during treatment of this patient.** 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 21 calendar days.**

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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.

Respectfully,

Libi Anders

Libi Anders
Investigator
Nevada State Board of Medical Examiners

NEVADA STATE BOARD OF MEDICAL EXAMINERS
325 E. Warm Springs Road, Suite 225
Las Vegas, NV 89119

Victor M. Muro, M.D.
Board President

Edward O. Cousineau, J.D.
Executive Director

[redacted]

[redacted]

RE: BME CASE #: [redacted]
PATIENT: [redacted]

[redacted]

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 patient may have fallen below the standard of care.

It is alleged:

[redacted]

It is further alleged:

[redacted]

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, as well as complete health care records for the aforesaid patient. Include copies of any imaging, x-ray or other films that were produced during treatment of this patient.** 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.**

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Respectfully,

Ryan Swank, Investigator
Nevada State Board of Medical Examiners
Las Vegas Office

NEVADA STATE BOARD OF MEDICAL EXAMINERS
325 E. Warm Springs Road, Suite 225
Las Vegas, NV 89119

Victor M. Muro, M.D.
Board President

Edward O. Cousineau, J.D.
Executive Director

[redacted]

RE: BME CASE #[redacted]
PATIENT: N[redacted]

[redacted]

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 patient may have fallen below the standard of care.

It is alleged:

[redacted]

It is further alleged:

[redacted]

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).

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Respectfully,

Ryan Swank, Investigator
Nevada State Board of Medical Examiners
Las Vegas Office

NEVADA STATE BOARD OF MEDICAL EXAMINERS
9600 Gateway Drive
Reno, NV 89521

Victor M. Muro, M.D.
Board President

Edward O. Cousineau, J.D.
Executive Director

[redacted]

[redacted]

RE: BME CASE #: [redacted]
PATIENT: [redacted]

[redacted]

We have received information and a complaint regarding your medical treatment of the above-named patient. The complaint alleges your treatment and care of the patient may have fallen below the standard of care which may have had an adverse impact on the quality of care rendered to the above-named patient.

It is alleged:

[redacted]

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, including, as well as complete health care records for the aforesaid patient[s]. Include copies of any imaging, x-ray or other films that were produced during**

treatment of this patient. 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.**

Please return the health care records with the signed Custodian of Records Affidavit, enclosed herewith. If you are not a custodian of the patient records, please indicate where the health care records can be obtained.

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 NPMA 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) (2).

Respectfully,

Samantha Hendricks
Investigator

NEVADA STATE BOARD OF MEDICAL EXAMINERS
9600 Gateway Drive
Reno, NV 89521

Rachakonda D. Prabhu, M.D.
Board President

Edward O. Cousineau, J.D.
Executive Director

[redacted]

RE; BME CASE #: [redacted]
PATIENT: [redacted]

[redacted]

We have received information and a complaint regarding your medical treatment of the above named patient. The complaint alleges starting in J[redacted]

It is further alleged:

[redacted]

Therefore, your care and treatment of the patient may have fallen below the standard of care.

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, as well as complete health care records for the aforesaid patient. Include copies of any imaging, x-ray or other films that were produced during treatment of this patient.** 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 21 calendar days.**

Please return the health care records with the signed Custodian of Records Affidavit, enclosed herewith. If you are not a custodian of the patient records, please indicate where the health care records can be obtained.

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: NRS 630.301(4).

Respectfully,

Trent S. Hiett
Investigator

NEVADA STATE BOARD OF MEDICAL EXAMINERS

9600 Gateway Drive
Reno, NV 89521

Rachakonda D. Prabhu, M.D.
Board President

Edward O. Cousineau, J.D.
Executive Director

[redacted]

RE: BME CASE #: [redacted]
PATIENT: [redacted]

[redacted]

We have received information and a complaint regarding your medical treatment of the above-named patient. The complaint alleges starting in [redacted]

It is further alleged:

[redacted]

Therefore, your care and treatment of the patient may have fallen below the standard of care.

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, as well as complete health care records for the aforesaid patient. Include copies of any imaging, x-ray or other films that were produced during treatment of this patient.** 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 21 calendar days.**

Please return the health care records with the signed Custodian of Records Affidavit, enclosed herewith. If you are not a custodian of the patient records, please indicate where the health care records can be obtained.

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: NRS 630.301(4).

Respectfully,

Trent S. Hiett
Investigator

NEVADA STATE BOARD OF MEDICAL EXAMINERS
325 E. Warm Springs Road, Suite 225
Las Vegas, NV 89119

Aury Nagy, M.D.
Board President

Edward O. Cousineau, J.D.
Executive Director

[redacted]

RE: BME CASE #: [redacted]
PATIENT: [redacted]

[redacted]

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 patient may have fallen below the standard of care.

It is alleged:

[redacted]

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, as well as complete health care records for the aforesaid patient[s]. Include copies of any imaging, x-ray or other films that were produced during treatment of this patient.** 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.**

Please return the health care records with the signed Custodian of Records Affidavit, enclosed herewith. If you are not a custodian of the patient records, please indicate where the health care records can be obtained.

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: NAC 630.040, NRS 630.301(4), NRS 630.306(1)(b)(2).

Respectfully,

Don Andreas, CMBI
Sr. Investigator
Las Vegas Office

NEVADA STATE BOARD OF MEDICAL EXAMINERS

9600 Gateway Drive
Reno, NV 89521

Aury Nagy, M.D.
Board President

Edward O. Cousineau, J.D.
Executive Director

[redacted]

RE: BME CASE #: [redacted]
PATIENT: [redacted]

[redacted]

We have received information and a complaint regarding [redacted] The complaint [redacted]

It is alleged:

[redacted]

[redacted]

It is further alleged:

[redacted]

According to these allegations, PA-C Robinson 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 statement to the allegations noted above against PA-C Robinson, as well as a copy of the licensing agreement pertaining to you being her primary supervising physician. Please provide copies of any other documentation pertinent to Ms. Robinson's supervision. 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.

You have not been named as a respondent in this case at this time. However, the Investigative Committee of the Board requires your records and treatment plan to help it investigate the care provided by yourself and others. Nevada physicians are professionally obligated to comply with lawful requests by the Board. *See* NRS 630.3062(4).

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 supervising physician of a physician assistant 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 PA-C Robinson may have violated the NMPA, specifically including but not limited to: NAC 630.040; NAC 630.810 (4); NRS 630.301 (4)(6); NRS 630.304 (7); NRS 630.305 (1)(d); NRS 630.306 (1)(b)(1); (1)(b)(2); (1)(g); (1)(r); NRS 630.3062 (1)(a).

Respectfully,

Monica C. Gustafson, CMBI
Senior Investigator

NEVADA STATE BOARD OF MEDICAL EXAMINERS

6010 S. Rainbow Blvd., Bldg. A, Ste. 2
Las Vegas, NV 89118

Rachakonda D. Prabhu, M.D.
Board President

Edward O. Cousineau, J.D.
Executive Director

[redacted]

[redacted]

RE: BME CASE #: [redacted]
PATIENT: [redacted]

[redacted]

We have received information and a complaint regarding your medical treatment of the above named patient. The complaint alleges your care and treatment of patient may have fallen below the standard of care.

It is alleged:

1. [redacted]

It is further alleged:

- [redacted]
- [redacted]
- [redacted]

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, including, as well as complete health care records for the aforesaid patient[s]. Include copies of any imaging, x-ray or other films that were produced during treatment of this patient.** 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 21 calendar days.**

Please return the health care records with the signed Custodian of Records Affidavit, enclosed herewith. If you are not a custodian of the patient records, please indicate where the health care records can be obtained.

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)(2).

Respectfully,

Don Andreas
Sr. Investigator
Las Vegas Office

[redacted]

NEVADA STATE BOARD OF MEDICAL EXAMINERS

9600 Gateway Drive
Reno, NV 89521

Victor M. Muro, M.D.
Board President

Edward O. Cousineau, J.D.
Executive Director

[redacted]

RE: BME CASE # [redacted]
PATIENT: [redacted]

[redacted]

We have received information and a complaint regarding your medical treatment of the above-named patient. [redacted]

It is alleged:

[redacted]

Therefore, your treatment and care of the patient may have fallen below the standard of care.

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, including your billing records for the patient and all surgery contracts/informed consents signed by the patient, as well as complete health care records for the aforesaid patient. Include copies of any imaging, x-ray or other films that were produced during treatment of this patient.** 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.**

Please return the health care records with the signed Custodian of Records Affidavit, enclosed herewith. If you are not a custodian of the patient records, please indicate where the health care records can be obtained.

page 2

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.

Respectfully,

Lori Anders
Investigator
Nevada State Board of Medical Examiners

EXHIBIT B

NEVADA STATE BOARD OF MEDICAL EXAMINERS
9600 Gateway Drive
Reno, NV 89521

Victor M. Muro, M.D.
Board President

Edward O. Cousineau, J.D.
Executive Director

January 10, 2022

Frontline Medical Group, LLC.
Sassan Kaveh, M.D.
3150 N. Tenaya Way, Suite 400
Las Vegas, Nevada 89128

RE: BME CASE #: 21-20910
PATIENT: N/A

Dear Dr. Kaveh,

We have received information that you entered into an agreed Stipulation and Order with the Nevada State Board of Pharmacy (Pharmacy Board) on October 1, 2021 that resulted in formal disciplinary action by the Pharmacy Board.

The Stipulation and Order alleges the following:

1. You dispensed a dangerous drug to a patient without a valid dispensing practitioner registration, in violation of Nevada Revised Statutes (NRS) 453.226, NRS 453.321, NRS 453.377, NRS 453.381, NRS 454.215, NRS 454.221, NRS 454.321, NRS 454.356, NRS 639.100, NRS 639.23505 and/or Nevada Administrative Code (NAC) 639.742.

2. You redispensed unused medication and thus a misbranded, mislabeled and potentially adulterated drug in violation of NRS 585.410, NRS 585.520, NRS 639.2801, NRS 639.282(1), NAC 639.601(1) and/or NAC 639.760.

3. You performed your duties as the holder of a Nevada controlled substance registration in an incompetent, unskillful or negligent manner and engaged in unprofessional conduct as defined in NAC 639.945(1)(i) and (k), and committed an act that renders registration inconsistent with the public interest.

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, and 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 to Investigation Division, ATTN: Ernesto Diaz, Nevada State Board of Medical Examiners, 9600 Gateway Drive, Reno, Nevada 89521).

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(3).

Respectfully,

Ernesto Diaz
Chief of Investigations

EXHIBIT L

FILED
SEP 27 2023
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

LEWIS BRISBOIS BISGAARD & SMITH LLP
MELANIE L. THOMAS
Nevada Bar No. 12576
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
Telephone: 702.893.3383
Facsimile: 702.893.3789
Melanie.Thomas@lewisbrisbois.com
Attorneys for Sassan Kaveh, M.D.

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

In the Matter of Charges and Complaint Against: SASSAN KAVEH, M.D., Respondent.	CASE NO. 23-10414-1 **SASSAN KAVEH, M.D.'S OPPOSITION TO INVESTIGATIVE COMMITTEE'S MOTION IN LIMINE** **[Oral Argument Requested on the Record]**

SASSAN KAVEH, M.D. ("Dr. Kaveh"), by and through his counsel LEWIS BRISBOIS BISGAARD & SMITH, LLP hereby submits his Opposition to the Investigative Committee of the Nevada State Board of Medical Examiners' Motion in Limine to Exclude Certain Witnesses Listed in Respondent's Prehearing Conference Statement.

DATED: September 26, 2023

Respectfully submitted,

MELANIE L. THOMAS
LEWIS BRISBOIS BISGAARD & SMITH LLP

/s/ Melanie L. Thomas
By: _____
Attorneys for Sassan Kaveh, M.D.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Deputy General Counsel does not want a public record to be made of the significant missteps in handling this matter wrongfully brought and maintained against Dr. Kaveh. However, the Medical Board will consider all evidence, documentary and testimonial, to determine whether and to what extent it will impose professional discipline upon Dr. Kaveh. Dr. Kaveh is entitled to present defenses, and mitigators to the charges. Dr. Kaveh has a pending dispositive motion related to repeated, significant, and concerning missteps by the Medical Board in handling this disciplinary action. Those missteps, and the motivation and/or intention behind them are extraordinarily relevant to these proceedings. As "the sole allegation in the IC's Complaint is that Respondent violated NRS and NAC 639, because Respondent was disciplined by the Nevada Board of Pharmacy, which is not disputed."[1]

Deputy General Counsel claims that the private, secret conversations with the Investigative Committee as its attorney, encompass an extension of the attorney-client privilege to any and all communications with, by, or between any member of the Board or its committees, and even this Hearing Officer.

> If, after investigation, the IC determines it is proper to file a formal complaint against a respondent, the formal complaint and the related disciplinary proceedings are then prosecuted by attorneys for the IC, creating an attorney-client relationship. Naturally, communications between the IC and its counsel, as well as the mental impressions, conclusions, opinions, and legal theories of the IC's attorneys concerning the matters they are charged with prosecuting are privileged and confidential. *See* NRS 49.095; NRCP 26(b)(3)(B); NRPC Rule 1.6(a). NRS 630.336(3)(c) extends this confidentiality not only to communications between the Board and its committees, but also any communications between the Board or its staff, investigators, experts, committees, panels, hearing officers, advisory members, consultants, or counsel.

See Motion, at 3:10-18. In other words, Deputy General Counsel claims he has unlimited

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[1] *See* Motion, at 1:24-25.

and unrestricted attorney-client privilege over the investigator, the Investigative Committee, the Hearing Officer presiding over this case, the members of the panel hearing and adjudicating this claim (the detective, the grand jury, the judge, and the jury).

On May 8, 2023, the Nevada State Board of Medical Examiners ("Medical Board") filed this action against Sassan Kaveh, M.D. ("Dr. Kaveh") after he reported a stipulation for public reprimand from the Nevada State Board of Pharmacy ("Pharmacy Board") on November 10, 2021[2]—and not as a result of any patient care complaint. To be clear, there have been no patient complaints made against Dr. Kaveh related to this matter. "The [Medical] Board responds with expediency to complaints against our licensees by conducting fair, complete investigations that result in appropriate action."[3] The Medical Board never received a patient complaint regarding Dr. Kaveh, but instead unilaterally opened its own investigation, which it then submitted to an Investigative Committee that was not formed in compliance with the Nevada Revised Statutes or as a result of its own publicly available procedures.[4] Part of the delegation of self-policing authority to administrative bodies requires that these administrative proceedings are not conducted in a manner that is arbitrary and capricious. Where the Medical Board seeks to impose consequential, statutory discipline for alleged statutory non-adherence on its members, there must be assurances that the Medical Board follows the same statutory scheme itself. Dr. Kaveh is entitled to due process, he has not received the same.

The Investigative Committee's Motion is improper. There are significant areas that can be canvassed with Dr. Kaveh's proposed witnesses that are not confidential or protected. The language of the statute relied upon by the IC is not mandatory language, and the case law is clear that there is not protection over the information Dr. Kaveh seeks to explore with these witnesses. Deputy General Counsel is permitted to lodge objections

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[2] Dr. Kaveh accepted this reprimand on October 13, 2021.
[3] *See* Mission Statement (available at https://medboard.nv.gov/About/About/) [last accessed Sept. 5, 2023) [emphasis added].
[4] *See* The Complaint Process.

on a question-by-question basis, which allows Dr. Kaveh the due process to which he is entitled. He cannot defend against these claims without these witnesses. He cannot present his substantive defenses, nor can he develop his laches defenses without this testimony. Because his liberty interests are directly at stake, there is good cause to allow the examination of these witnesses subject to any rulings on objections at the time of hearing. Privileges are to be applied in the least restrictive manner, and the application sought by Deputy General Counsel exceeds the bounds of the law and deprives Dr. Kaveh of his rights to a fair and impartial hearing. Should this action survive dismissal, Dr. Kaveh must be presented to put on his case, including developing all applicable defenses.

II. STATEMENT OF RELEVANT FACTS

1) The Investigative Committee of the Medical Board met fourteen (14) times since Dr. Kaveh provided notice of his settlement with the Pharmacy Board:

- November 10, 2021
- November 19, 2021
- February 9, 2022
- February 18, 2022
- May 11, 2022
- May 31, 2022
- August 11, 2022
- August 19, 2022
- August 24, 2022
- November 9, 2022
- November 18, 2022
- February 8, 2023
- February 9, 2023
- February 17, 2023

See Combined Summary Reports of Investigative Committees of the Medical Board.

2) None of Summary Reports of the Investigative Committee meetings listed Bret W. Frey, M.D. and Col. Eric D. Wade, USAF (Ret.) as the only two members in attendance.

3) All of the summary reports from the Investigative Committee meetings listed three (3) members.

4) Dr. Kaveh served his Pre-Hearing Motion to Dismiss (with exhibits) on Medical Board counsel and the Hearing Officer via email on September 5, 2023.

5) Medical Board counsel's paralegal, Mercedes Fuentes, then served a file-stamped copy of Dr. Kaveh's Motion <u>without the exhibits</u> (without explanation) on the

Hearing Officer.[5]

6) On September 8, 2023, Deputy General Counsel William P. Shogren, Esq. filed an Errata to Complaint three days after the instant Motion was filed.

> thereto. An inadvertent clerical error was discovered on page 1, footnote 1, and should read as follows in its entirety:
>
> "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 Bret W. Frey, M.D., Chair, Chowdhury H. Ahsan, M.D., Ph.D., FACC, and Col. Eric D. Wade, USAF (Ret.)."

See Errata.

7) Based off the Errata, this Investigative Committee could have *only* met on either: November 19, 2021, February 18, 2022, or May 31, 2022.

Upon the advice of counsel, Dr. Kaveh entered into a Stipulation with the Pharmacy Board on October 15, 2021, wherein he reluctantly pled no contest based on an understanding that a formal hearing would likely result in more significant discipline and professional harm.

Dr. Kaveh complied with all terms of the Stipulation.

Dr. Kaveh sought to better understand his professional obligations under the Nevada Revised Statutes, Nevada Administrative Code, and/or any applicable Board regulations by attempting to engage the Board of Pharmacy (through Deputy Executive Secretary and Pharmacist Yenh Long (hereinafter "Secretary Long")) and informally, the Nevada Attorney General's office to understand his obligations as a practitioner under Nevada law. Unfortunately, neither of these entities provided Dr. Kaveh with guidance in response to his inquiries.

In reviewing Attorney General Opinions as far back as the year 2000, there are only two opinions dealing with the Pharmacy Board. There are no Nevada cases or Attorney

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[5] Once confronted with this issue, Ms. Fuentes reattached the exhibits to Dr. Kaveh's Motion and served the complete pleading on the Hearing Officer.

General opinions related to the matters and laws raised in the Pharmacy Board action, and Deputy General Counsel for the Medical Board has been unable to point to any continuing medical education classes on the Nevada Revised Statutes on these points.

According to NRS 639.0071, a drug sample "means any unit of a drug that is not to be sold and is used to promote the sale of the drug." There is no caselaw available that provides any aid into interpreting this statute, despite the ambiguous language.

The Code of Federal Regulations defines drug sample as "a unit of a prescription drug that is not intended to be sold and is intended to promote the sale of the drug." 21 C.F.R. § 203.3(i).

Dr. Kaveh remained concerned about the absence of clarity within the Nevada statutes related to providing sample medications and the act of "dispensing," and voluntarily and proactively engaged Secretary Long on February 22nd and February 23rd, 2022, seeking to define "dispensing" in relation to providing a free sample to a patient.

On February 23rd, Secretary Long stated that she would be sending Dr. Kaveh an email with the statutory and/or regulatory provisions that supported the guidance she provided. The information was never sent to Dr. Kaveh, despite multiple follow up inquiries.

Deputy Attorney General Sophia Long declined a meeting to discuss the confusion presented to Nevada's medical providers by the current laws in this State, hoping to get clarification given the absence of interpreting caselaw.

On November 10, 2021, Dr. Kaveh notified the Medical Board of his Stipulation with the Pharmacy Board.

On January 10, 2022, the Medical Board served Dr. Kaveh with a request for information regarding the Pharmacy Board Stipulation, in the absence of public citizen complaint pursuant to NRS 630.307, and in the absence of the authority provided under NRS 630.3069 (limiting the Board's authority to unilaterally investigate a licensee absent a report of malpractice).

> Dear Dr. Kaveh,
>
> We have received information that you entered into an agreed Stipulation and Order with the Nevada State Board of Pharmacy (Pharmacy Board) on October 1, 2021 that resulted in formal disciplinary action by the Pharmacy Board.

Id.

On March 7, 2022, Dr. Kaveh submitted a response to the Board's Request for Information.

On May 8, 2023, the Medical Board filed the instant Complaint against Dr. Kaveh. initiating "proceedings intended to protect the public."[6]

On September 5, 2023, the Medical Board disclosed its evidence and witnesses, limited to Dr. Kaveh, the Board investigator, with all exhibits consisting of documents and/or other materials available to the Medical Board no later than November 10, 2021.

According to the Medical Board, everything needed to prove its case against Dr. Kaveh was available on October 15, 2021.

> Here, this matter does not turn on the credibility of witnesses' testimony, but rather is largely based on documentary evidence. As outlined in the IC's Prehearing Conference Statement, the only witnesses listed are Dr. Kaveh and a Board investigator. *Prehearing Conference Statement*, at 1:15-27. Instead, the primary exhibit the IC will use at a hearing is the Stipulation and Order entered on October 15, 2021. *See id.* at 2. The authenticity of this document

Id., at 9:21-25.

> [1] Because Respondent has not demonstrated prejudice, laches does not apply. *See, e.g., Price*, 113 Nev. at 412, 934 P.2d at 1043. Nonetheless, the IC also notes that it endeavors to file formal Complaints, where warranted, as soon as possible after the review process is complete; that the investigation itself was not instantaneous, i.e., this case was one of thousands processed by the Board between 2020 and 2023. The IC asserts that the time between the close of the investigation and the filing of the formal Complaint was reasonable.

Id., at 10, n.1.

Dr. Kaveh's counsel performed a search of publicly available records to identify whether the Medical Board has filed similar complaints for "reciprocal discipline" and the attendant timeline of those cases, locating *only* four prior complaints citing "NRS

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[6] *See* Opposition to Dr. Kaveh's Motion to Dismiss, at 6:6.

630.306(1)(b)(3)" as *a* basis for the action all of which have separate statutory counts charged against the medical doctor. There were no publicly available complaints citing *only* NRS 630.306(1)(b)(3) as the *sole* basis for discipline available using "NRS 630.306" as the search term, either through Google or the Medical Board's own internal sitewide search option. However, the Medical Board has since referenced six additional complaints, distinguishable from those cited by Dr. Kaveh. Two cases had no contemporaneous Pharmacy Board component, two cases related to physicians writing 189-263 separate controlled substance prescriptions without a valid controlled substance registration, another related to using another provider's controlled substance registration to write prescriptions, and finally enabling office personnel to maintain access to dangerous drugs without prescriptions.[7]

BOP Action	BME Initiated Action	Abbrev. Factual Allegations	NRS violations alleged
09/05/18	10/17/18	Case No. 18-8756-1: Respondent used the Prescription Monitoring Program to run an electronic query on 1 October shooter Stephen Paddock on 10/2/17 using multiple different search parameters. Paddock was never Respondent's patient. Respondent provided the resultant information to the Las Vegas Review Journal, and it was then published in an article. The matter proceeded to a full disciplinary hearing before the BOP. The Pharmacy Board issued a stayed revocation of Respondent's certificates of registration with the BOP, and instead placed Respondent on a conditional one year probation. The BME Complaint followed **42 days later**, setting forth ten (10) separate counts.	NRS 630.306(1)(b)(3) NRS 630.301(9) NRS 630.306(1)(r) NRS 630.306(1)(b)(3) NRS 630.301(1)(b)(2) NRS 630.3062(1)(a) NRS 630.306(1)(p) NRS 630.306(1)(c) NRS 630.306(1)(c) NRS 630.3062(1)(a)
03/06/19	03/21/19	Case No. 19-38366-1: Respondent was the proprietor of an IV hydration company that provided various elective therapies and concierge medical services. It is alleged that Respondent improperly permitted staff to prescribe, order, and possess an inventory of dangerous drugs	NRS 630.306(1)(b)(3) NRS 630.306(1)(c) NRS 630.306(1)(r) NRS 630.305(1)(e) NRS 630.3062(1)(a)

[7] *See* Opposition to Dr. Kaveh's Motion to Dismiss, at 12:1-16.

BOP Action	BME Initiated Action	Abbrev. Factual Allegations	NRS violations alleged
		when he was not present on site; aided and abetted the unauthorized practice of medicine; and, purchased dangerous compounded drugs from a pharmacy not licensed with the Pharmacy Board. The matter was resolved by way of Stipulation and Order with the BOP. Respondent was given a public reprimand and placed on 12 months probation by the BOP. The BME Complaint followed **15 days later**, setting forth five (5) separate counts.	
10/10/18	01/09/19	Case No. 19-33320-1: Respondent was alleged to have aided and abetted the unlawful prescribing of controlled substances, dangerous drugs, including to patients with whom she did not have a bona fide doctor-patient relationship, failing to segregate expired medications from unexpired medications, failure to keep and produce records related to hydroquinone tretinoin and/or juvederm syringes dispensed, and allowing other practitioners to treat her patients and bill Medicaid and/or other commercial health insurance using her NPI (thus representing she performed those services personally). The matter was resolved by way of Stipulation and Order with the BOP. The BME Complaint followed **91 days later**, setting forth four (4) separate counts.	NRS 630.306(1)(b)(3) NRS 630.306(1)(c) NRS 630.305(1)(d) NRS 630.3062(1)(a)
06/05/20	09/08/20	Case No. 20-18832-1: Respondent is alleged to have placed her Nevada medical license in inactive status in May 2009, where it remained at the time of the allegations. The BOP send Respondent a cease and desist letter on 6/5/20 to stop prescribing controlled substances to Nevada patients. On 6/14/20, Respondent surrendered her DEA Certificate of Registration which had allowed her to order, possess, dispense, administer, prescribe, or engage in any other activities with controlled substances. The BME alleged that Respondent renewed her licensed to prescribe controlled substances (each renewal period since 2009), therein representing to the BOP that she had an active license issued by the BME. Respondent was alleged to have prescribed controlled substances to four separate Nevada patients.	NRS 630.306(1)(b)(3) NRS 630.304(1) NRS 630.306(1)(c) NRS 630.306(1)(c) NRS 630.306(1)(c) NRS 630.306(1)(c)

BOP Action	BME Initiated Action	Abbrev. Factual Allegations	NRS violations alleged
		The BME Complaint followed **95 days later**, setting forth six (6) separate counts.	

III. LEGAL ARGUMENT AND ANALYSIS

The Complaint does not meet the procedural pre-requisites for initiating discipline against Dr. Kaveh and deprived him of due process. The Medical Board's Complaint against Dr. Kaveh is void ab initio for failure to comply with filing pre-requisites aimed to ensure fairness and due process in the conduct of these proceedings. Failure to comply with statutory requirements also renders a claim subject to dismissal. *Borger v. District Court*, 120 Nev. 1021, 102, 102 P.3d 600 (2004).

A. THE MEDICAL BOARD FAILED TO FOLLOW NRS 630.311(1) RENDERING THE COMPLAINT AGAINST DR. KAVEH VOID

The Medical Board must follow Nevada law and its own procedures to ensure due process when seeking to impose consequences on protected liberty interests of its members. This did not occur in this instance, and Dr. Kaveh must not bear the burden of the Medical Board's errors. Deputy General Counsel seeks to preclude Dr. Kaveh from independently verifying the veracity of the secret and confidential proceedings from which these disciplinary proceedings were spawned.

In fact, there is no record of the two (2) person panel convened as the Investigative Committee as referenced in the Complaint. Board counsel submits an errata and claims this was a harmless mistake, denying Dr. Kaveh the opportunity to verify these representations. In exchange for the forced blind trust in the Medical Board to conduct its secret proceedings to determine whether a doctor will be publicly disciplined, medical doctors must be assured that even an appearance of impropriety in that process will result in wholesale dismissal. The standard of care was not met by the Investigative Committee. It lacked the authority to convene and authorize disciplinary proceedings against Dr.

Kaveh.

B. THE MEDICAL BOARD DID NOT HAVE AUTHORITY TO INVESTIGATE DR. KAVEH IN THE ABSENCE OF A PUBLIC COMPLAINT OR A REPORTED CLAIM OF MALPRACTICE

In addition to failing to comply with Nevada law as procedural pre-requisite to bringing this Complaint against Dr. Kaveh (rendering the Complaint void), the Medical Board has subjected Dr. Kaveh to disparate treatment and prejudicial delay. The Board is only authorized and required to conduct an investigation in the absence of a public complaint, where certain reports of malpractice are received.

> **NRS 630.3069 Board required to conduct investigation after receiving certain reports concerning malpractice.** If the Board receives a report pursuant to the provisions of NRS 630.3067, 630.3068 or 690B.250 indicating that a judgment has been rendered or an award has been made against a physician **regarding an action or claim for malpractice** or that such an action or claim against the physician has been resolved by settlement, the Board shall conduct an investigation to determine whether to impose disciplinary action against the physician regarding the action or claim, unless the Board has already commenced or completed such an investigation regarding the action or claim before it receives the report.

NRS 630.3069. [**emphases added**]. There was no contemporaneous **malpractice** claim against Dr. Kaveh. It appears the public policy behind this is to act only when there is an initial public complaint made to the Medical Board, *or* upon the report of certain events **related to malpractice** which are not applicable here but stem from patient care complaints brought in litigation, mediation, arbitration, or were otherwise settled. *Id.*; *see also* NRS 630.3067-NRS 630.3068.

The only other mechanism that permits the Medical Board to initiate an investigation, is NRS 630.307, which requires first that a public complaint be received (not initiated) by the Board.

> Chapter 630 specifies that **once the Board receives a complaint about a physician**, an investigative committee reviews it to determine whether is has a reasonable basis. *See* Nev. Rev. Stat. § 630.311. If the investigation substantiates the complaint, the Board **may** bring formal charges against the physician and set a hearing date. *Id.* § 630.339.

Buckwalter v. Nev. Bd. of Med. Exam'rs, No. 11-15742, 2012 U.S. App. LEXIS 8461, at *8 (9th Cir. Apr. 26, 2012). [**emphases added**]. NRS 630.307 provides in relevant part as

follows:

> **NRS 630.307 General requirements for filing complaint; medical facilities and societies required to report certain information concerning privileges and disciplinary action; administrative fine for failure to report; clerk of court required to report certain information concerning court actions; retention of complaints by Board.**
>
> 1. Except as otherwise provided in subsection 2, **any person** may file with the Board a complaint against a physician [...] on a form provided by the Board. The form may be submitted in writing or electronically. If a complaint is submitted anonymously, the Board may accept the complaint but may refuse to consider the complaint if the lack of the identity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.
>
> 2. **Any licensee, medical school or medical facility** that becomes aware that a person practicing medicine [...] in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.
>
> 3. Except as otherwise provided in subsection 4, **any hospital, clinic or other medical facility licensed in this State, or medical society**, shall report to the Board any change in the privileges of a physician, [...] to practice while the physician [...] is under investigation and the outcome of any disciplinary action taken by that facility or society against the physician [...] concerning the care of a patient or the competency of the physician [...] within 30 days after the change in privileges is made or disciplinary action is taken.
>
> 4. **A hospital, clinic or other medical facility licensed in this State, or medical society**, shall report to the Board within 5 days after a change in the privileges of a physician [...] to practice that is based on:
>
> (a) An investigation of the mental, medical or psychological competency of the physician [...]; or
>
> (b) Suspected or alleged substance abuse in any form by the physician [...].
>
> 6. **The clerk of every court** shall report to the Board any finding, judgment or other determination of the court that a physician [...]:
>
> (a) Is mentally ill;
>
> (b) Is mentally incompetent;
>
> (c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;
>
> (d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or
>
> (e) Is liable for damages for malpractice or negligence,
>
> Ê within 45 days after such a finding, judgment or determination is made.
>
> 7. The Board shall retain all complaints filed with the Board pursuant to this section for at least 10 years, including, without limitation, any complaints not acted upon.

NRS 630.307. [**emphases added**]. The request for information was based solely off the Medical Board's notification by Dr. Kaveh and not any form complaint submitted by "any person," "[a]ny licensee, medical school or medical facility," "any hospital, clinic or other

medical facility licensed in this State," or "[t]he clerk of [any] court." *Id.* There was no contemporaneous malpractice claim, action, or settlement.

The Medical Board is permitting the targeted prosecution of Dr. Kaveh in violation of clear and unambiguous statutory limitation on authority.

Not only did the Medical Board and its Deputy General Counsel usurp authority to which it is not entitled, it has delayed and drawn out this process to Dr. Kaveh's detriment. Dr. Kaveh is entitled to canvass these witnesses regarding their understanding of the very laws they believe they are entitled to enforce. Dr. Kaveh is entitled to know why the procedural safeguards and guarantees were trampled upon and/or outright denied in his case.

Dr. Kaveh is entitled to dismissal of this action against him, but if the Medical Board insists on violating his rights to substantive and procedural due process, he is going to make his record for the appeal in the process. The Medical Board does not get to play secret police and discriminately target its licensees wielding a cloak of authority that it does not possess and then claim everything about their unauthorized action is confidential and privileged.

Deputy General Counsel does not get to make representations about the propriety of the Investigative Committee's activities in an attempt to influence the Hearing Officer in its favor, and then invoke absolute privilege for any objective support for his assertions without 1) waiving the privilege, 2) making himself a necessary witness, only to then 3) hide behind that privilege to protect *any* communication with anyone at the Medical Board about anything related to their practices. If the Medical Board seeks to enforce provisions of the Nevada Revised Statutes against its licensees, its licensees can rightfully expect that the required protocol and procedure is followed. The Ninth Circuit found that these proceedings have procedural safeguards (that have been denied to Dr. Kaveh in *this* case), that justifying the secret and confidential nature of the proceedings:

> Second, we opined that it was "difficult to dispute" that **adequate procedural safeguards trammeled the Board Members' authority**. *Id.* The "comprehensive umbrella of statutes" **governing the Board's conduct**

> **created procedural safeguards** akin to those available under federal administrative law. *Id.* at 1005-06; *see also Butz*, 438 U.S. at 514 ("[T]he Administrative Procedure Act contains a number of **provisions designed to guarantee the independence of hearing examiners**. . . . In light of these safeguards, we think that the risk of an unconstitutional act by one presiding at an agency hearing is clearly outweighed by the importance of preserving the independent judgment of these men and women.").

Buckwalter v. Nev. Bd. of Med. Exam'rs, 2012 U.S. App. LEXIS 8461, at *10-11 (9th Cir. Apr. 26, 2012). [**emphases added**]. Those safeguards were erased in this case. A prime example is Deputy General Counsel's outrageous suggestion that he has attorney-client privilege with the Hearing Officer, although defense counsel has no reason to expect that Ms. Ghusn would ever agree with such a preposterous and concerning assertion.[8]

Further, any privilege asserted pursuant to NRS 630.311 and NRS 630.336 has been waived by the Investigative Committee and its counsel's own actions.

> "Possibly Respondent refers to **the IC's formal Complaint**, which stated in footnote one that "[t]he 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 Bret W. Frey, M.D., and Col. Eric D. Wade, USAF (Ret.)." *See Complaint* at 1. However, this footnote was the result of an inadvertent clerical error and should have included the third member of the Investigative Committee, Chowdhury H. Ahsan, M.D., Ph.D, FACC. After discovery of this error, an Errata to Complaint was **filed by the IC**, correcting this clerical error. *See Errata to Complaint.*"[9]
>
> "**The IC** Did Not Violate NRS 630.311."[10]
>
> "The Investigative Committee, at the time the formal Complaint against Respondent was authorized for filing, was composed of three Board members, as required by NRS 630.311(3)."[11]
>
> "Because Respondent has received notice of the charges against him, will have the opportunity to review and challenge all documents and witnesses on which the IC will rely in this matter, and have his rights observed at all stages of the disciplinary process, *see* NRS 630.339-.358, he has a full and adequate remedy at law, and the equitable remedy of laches is therefore not available to him here."[12]
>
> "Because Respondent has not demonstrated prejudice, laches does not apply. *See, e.g., Price,* 113 Nev. at 412, 934 P.2d at 1043. Nonetheless, **the IC also notes** that it endeavors to file formal Complaints, where

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[8] *See* Motion, at 3:10-18.
[9] *See* Opposition to Dr. Kaveh's Motion to Dismiss, at 4:16-23.
[10] *Id.,* at 4:7.
[11] *Id.,* at 5:12-13.
[12] *Id.,* at 6:1-5.

> warranted, as **soon as possible** after the review process is complete; that **the investigation itself was not instantaneous**, i.e., this case was one of thousands processed by the Board between 2020 and 2023. **The IC asserts that the time** between the close of the investigation and the filing of the formal Complaint **was reasonable**."[13]

Deputy General Counsel has waived privilege by making factual representations regarding the Investigative Committee's conduct during its secret meetings and thereafter. The door has been opened.

Deputy General Counsel moves *in limine* to exclude these witnesses, but really is seeking a protective order to preclude Dr. Kaveh from discovering the breadth and depth of the Medical Board's decision to disregard its own procedures in order to deprive him of due process, hiding behind an extreme overreach to apply privileges that are to be strictly construed.

> Rule 26(c)(1) of the Federal Rules of Civil Procedure provides that the court may, for good cause, issue a protective order [...]. **The burden of persuasion is on the party seeking the protective order**. *U.S. E.E.O.C. v. Caesars Entertainment*, 237 F.R.D. 428, 432 (D.Nev. 2006). The movant **must** demonstrate a particular need for the protection sought, and **must** point to specific facts that support the request. A mere showing that discovery may involve some inconvenience or expense does not suffice to establish good cause under Rule 26(c). *Id.* Rule 45(d)(3)(A)(iii) provides that the Court must quash or modify a subpoena that requires disclosure of privileged or other protected matter, **if no exception or waiver applies**.
>
> Sunrise Defendants and the Medical Board argue that they are entitled to an order quashing or granting a protective order regarding deposition topics 8 and 10-15 because testimony regarding Ms. Ward's familiarity with complaints and investigations conducted by the Medical Board are confidential. NRS 630.307 provides that "any person may file a written complaint against a medical doctor with the Medical Board within 30 days after becoming aware of the conduct that is the subject of the complaint." Plaintiff alleges that such complaint was filed against him. Sunrise Defendants and the Medical Board rely on NRS 630.336, which reads in pertinent part: "the complaint and all documents and other information compiled as a result of an investigation to determine whether to initiate disciplinary action are confidential." NRS 630.336.4
>
> The Court is arguably not bound by the confidentiality provisions of NRS 630.336.4 to the extent that complaints against the Plaintiff are relevant to the resolution of the federal claims in this action. Federal courts hold, however, that in order to obtain discovery of confidential commercial information, **a party is required to show that the information sought is relevant and necessary in order to prove its claim or defense**. *See*

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[13] *Id.*, at 10, n. 1. [**emphases added**].

> *e.g. DIRECTV, Inc. v. Trone*, 209 F.R.D. 455, 459-60, (C.D. Cal. 2002). A similar analysis applies here.
>
> Plaintiff does not deny that NRS 630.336 is applicable, but instead points to the language in subsection 3 of the statute which indicates, "communications **may** be confidential" and argues that the Court should look to whether the proposed inquiries are relevant to the remaining claims and defenses and whether there is a need for the information. Plaintiff further contends the proposed inquiries are **relevant to show whether the Defendants engaged in nefarious activity** related to Plaintiff.

Sharda v. Sunrise Hosp. & Med. Ctr., LLC, 2018 U.S. Dist. LEXIS 210875, at *4-6 (D. Nev. Dec. 14, 2018); *see also* NRS 0.025(a)(" (a) "May" confers a right, privilege or power. The term "is entitled" confers a private right."); *compare* NRS 0.025(c)("Must" expresses a requirement when: (1) The subject is a thing, whether the verb is active or passive."); *see also* NRS 0.025(d)("'Shall' imposes a duty to act."). While the *Sharda* decision involves a Rule 45 subpoena, the same privilege is being asserted thus the analysis is the same as applicable under our facts.

There are repeated instances of error in the Medical Board's conduct of these proceedings toward Dr. Kaveh. Those errors need to be explored and placed on the record to enable Dr. Kaveh to have an appropriate record for any appeal and resultant litigation. There are repeated examples of stonewalling, bait and switch, misleading representations, modification of documents (cured upon confrontation), that need to be explored. Whether the Medical Board convened an Investigative Committee without proper statutory authority and in the absence of a public complaint, those involved in making this decision, the participants, their understanding of their respective roles and the statutes governing their conduct are critical issues to explore if this case is not dismissed.

IV. CONCLUSION

The integrity of the Medical Board is called into question where it appears that they have deviated from their statutory requirements and customs in singling out a medical doctor, like they have done to Dr. Kaveh. There is no evidence that this matter was given full and fair consideration by a properly convened Investigative Committee, in fact there is plain evidence to the contrary that no citizen complaint was filed that would authorize

the convening of said Committee. Dr. Kaveh was told that non-punitive admonishment pursuant to NRS 630.299 was unavailable to him because the Investigative Committee already authorized the initiation of disciplinary proceedings. These proceedings were initiated improperly and are void. Dr. Kaveh was denied full and proper consideration pursuant to NRS 630.299, because an improperly and insufficiently formed Investigative Committee with less than the required members purportedly authorized the filing of the Complaint.

When discipline is initiated, the initiating entity must ensure fairness and integrity in those proceedings. When there are secret meetings, convened without the appropriate authority and/or numbers, seeking to impose discipline in a manner inconsistent with discipline imposed on other medical doctors, there is a due process violation. It would be inequitable for the Medical Board to punish Dr. Kaveh for violating unclear statutory provisions when the Medical Board itself has failed to comply with statutory provisions governing its conduct. Therefore, Dr. Kaveh is entitled to canvass all of these relevant and critical witnesses to ensure that they are complying with Nevada Revised Statutes in the conduct of their Board affairs, and to understand their decisions to deviate in this case. The appropriate response is to allow Dr. Kaveh to call his witnesses on the record, and for objections to be addressed on a question-by-question basis.

September 26, 2023

LEWIS BRISBOIS BISGAARD & SMITH LLP

By /s/ Melanie L. Thomas

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CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of September, 2023, a true and correct copy of **SASSAN KAVEH, M.D.'S OPPOSITION TO INVESTIGATIVE COMMITTEE'S MOTION IN LIMINE** was sent via electronic mail to the following:

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By /s/ Melanie L. Thomas
An Employee of
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EXHIBIT M

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **SASSAN KAVEH, M.D.,** **Respondent.**	**Case No. 23-10414-1**

FILED
OCT - 2 2023
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
9600 Gateway Drive
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INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS' REPLY IN SUPPORT OF MOTION IN LIMINE TO EXCLUDE CERTAIN WITNESSES LISTED IN RESPONDENT'S PREHEARING CONFERENCE STATEMENT

The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board), by and through William P. Shogren, Deputy General Counsel and attorney for the IC, hereby files its Reply in Support of Motion in Limine to Exclude Certain Witnesses Listed in Respondent's Prehearing Conference Statement.

MEMORANDUM OF POINTS AND AUTHORITIES

I. PROCEDURAL BACKGROUND

On May 8, 2023, the IC filed a formal Complaint against Sassan Kaveh, M.D. (Respondent), alleging one (1) count of violation of NRS 630.306(1)(b)(3). The language of the statute specifically provides that "engaging in any conduct which is a violation of a provision of chapter 639 of NRS, or a regulation adopted by the State Board of Pharmacy pursuant thereto, that is applicable to a licensee who is a practitioner," constitutes grounds for initiating disciplinary action against a respondent. In short, the sole allegation in the IC's Complaint is that Respondent violated NRS and NAC 639, because Respondent was disciplined by the Nevada Board of Pharmacy, which is not disputed.

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Respondent previously filed a Prehearing Conference Statement. This Statement listed seven (7) proposed witnesses, including Bret W. Frey, M.D. (witness number two (2)); Col. Eric D. Wade (witness number three (3)); Chowdhury H. Ahsan, M.D. (witness number four (4)); me, William P. Shogren (witness number six (6)); and Mercedes Fuentes (witness number seven (7)).

After obtaining leave from the Hearing Officer, the IC filed a motion in limine in response to Respondent's Prehearing Conference Statement. In its motion, the IC argued that testimony from proposed witnesses numbers two (2), three (3), four (4), six (6), and (7) should be excluded at the formal hearing primarily because any expected testimony would either be (1) confidential and privileged or (2) irrelevant and immaterial to the case. Respondent then filed his Opposition to the IC's Motion in Limine. The IC still maintains that it would be improper for these proposed witnesses to be called upon to testify during the formal hearing, and counsel for the IC still requests that these witnesses be excluded from testifying at the formal hearing in this case.

II. ARGUMENT

1. Witnesses Number Two (2), Three (3), Four (4), Six (6), and Seven (7) Cannot Testify Due to Statutory Confidentiality Provisions and Attorney-Client Privilege.

As previously explained in the IC's Motion in Limine, various statutes and regulations preclude members of the IC and Board staff from testifying about participation in the underlying investigation in this case or the IC's participation in any proceedings involving this case. *See* NRS 630.311(3); NRS 630.336(3)-(4). Likewise, communications between the IC and its counsel, as well as the mental impressions, conclusions, opinions, and legal theories of the IC's attorneys concerning the matters they are charged with prosecuting are privileged and confidential. *See* NRS 49.095; NRCP 26(b)(3)(B); NRPC Rule 1.6(a). Respondent's proposed witnesses are statutorily prohibited from testifying regarding the topics Respondent mentions in his Prehearing Conference Statement.

In his Opposition, Respondent argues that the IC somehow waived any privilege asserted pursuant to NRS 630.311 and NRS 630.336. *See* Opposition at 14:10-6. In support of his argument, Respondent points to several passages from the IC's Opposition to Respondent's Motion to Dismiss. *See id.* However, the IC has not made factual representations regarding the IC's actual conduct during the confidential investigative process or at any confidential proceeding.

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In its Opposition, the IC generally refuted Respondent's arguments, e.g., that the IC was not properly formed pursuant to NRS 630.311(3) or that the formal Complaint against Respondent was not filed in a reasonable amount of time. The composition of the IC is not confidential and is in fact a public record. The IC members are listed in the formal Complaint and are provided in publicly available summary reports. *See Respondent's Motion to Dismiss*, Exhibit F. Further, waiver is the intentional relinquishment of a known right, and forced denials of an opposing party's allegations normally do not waive confidentiality privileges. *See Mitchell v. Eighth Judicial Dist. Court of State ex rel. County of Clark*, 131 Nev. 163, 169, 359 P.3d 1096, 1099 (2015) (citing *Mill-Spex, Inc. v. Pyramid Precast Corp.*, 101 Nev. 820, 822, 710 P.2d 1387, 1388 (1985)).

The IC has not opened the door for Respondent to elicit testimony regarding the content of the IC's investigation or the IC's conduct during confidential proceedings.

Respondent also argues that the IC is "hiding behind an extreme overreach to apply privileges that are to be strictly construed." *Respondent's Opposition* at 15:10-11. Respondent cites to an order from a United States District Court case, *Sharda v. Sunrise Hosp. & Med. Ctr., LLC*, 2018 U.S. Dist. LEXIS 210875 (D. Nev. Dec. 14, 2018). The court stated that it "must quash or modify a subpoena that requires disclosure of privileged or other protected matter, if no exception or waiver applies." *See id.* at *1. The court also stated that it was "***arguably*** not bound by the confidentiality provisions of NRS 630.336.4 to the extent that complaints against the Plaintiff are relevant to the resolution of the federal claims in this action." *Id.* at *2 (emphasis added). The court ultimately found that the Plaintiff's proposed inquiries were too irrelevant to override the provisions of NRS 630.336. *Id.*

Here, the information sought by Respondent, from the IC and Board staff, is not relevant to the case, as already explained in the IC's Motion in Limine, and as elaborated below. Further, NRS 630.311 and NRS 630.336 clearly prohibit testimony regarding the contents of IC investigations and meetings. The Nevada Supreme Court, in *Sarfo v. Board of Medical Examiners*, 134 Nev. 709, 429 P.3d 650 (2018), noted that "'[w]hen the language of a statute is plain and unambiguous, and its meaning clear and unmistakable, there is no room for construction,

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and the courts are not permitted to search for its meaning beyond the statute itself.'" *Id.* at 714 (quoting *Dykema v. Del Webb Cymtys., Inc.*, 132 Nev. 823, 827, 385 P.3d 977, 979 (2016). The Court in *Sarfo* also stated that it would "defer to an agency's interpretation of its governing statutes or regulations if the interpretation is within the language of the statute." *Id.* (quoting *Duchess Bus. Servs., Inc. v. Nev. State Bd. Of Pharmacy*, 124 Nev. 701, 709, 191 P.3d 1159, 1165 (2008).

In *Sarfo*, the Plaintiff, a medical doctor who received a formal complaint from the Nevada State Board of Medical Examiners, argued that the Board kept the pre-complaint investigation more confidential than he believed NRS 630.336(4) required. *Id.* at 714-715. However, the Court found that NRS 630.336(4) was unambiguous, and that the Board's interpretation of the statute's confidentiality requirements fell within the plain language of the statute. *Id.* at 714-715. The Court's reasoning in *Sarfo* applies here. NRS 630.311(3) unambiguously states that Investigative Committee proceedings are confidential. NRS 630.336(4) unambiguously states that all documents and other information complied as a result of an investigation are confidential. NRS 630.336(3)(c)(2) further states that any communication between the Investigative Committee and counsel for the Board may be kept confidential. The IC's interpretation falls within the plain language of these statutes. Respondent's proposed witnesses cannot testify regarding the IC's confidential investigation or meetings.

2. The Testimony of Several of Respondent's Proposed Witnesses is Irrelevant to the Charges Against Him.

Here, the IC filed a formal Complaint against Respondent, which includes one (1) charge for a violation of the MPA, namely that, pursuant to a stipulation and order entered into with the Nevada State Board of Pharmacy, Respondent violated provisions of NRS 639 and therefore is subject to discipline under NRS 630.306(1)(b)(3). This case is solely about Respondent's Nevada Pharmacy Board discipline, which is not disputed.

Instead, Respondent has raised several collateral issues regarding due process. *See Respondent's Motion to Dismiss.* Presumably Respondent includes members of the IC and Board staff as witnesses to testify about these alleged, collateral due process issues. However, as

explained in the IC's Motion in Limine, such anticipated testimony is irrelevant as to whether Respondent violated the MPA. Respondent refers to "repeated examples of stonewalling, bait and switch, misleading representations, modifications of documents (cured upon confrontation), that need to be explored." *Respondent's Opposition* at 16:17-18. Once again, this somewhat vague statement does not appear to involve the underlying issue involving Respondent's Pharmacy Board disciplinary action, which Respondent does not dispute.

3. **The Medical Board Had Authority to Investigate Respondent.**

Respondent has also brought forth a new argument regarding due process, both in his Reply in Support of his Motion to Dismiss, and in his Opposition to the IC's Motion in Limine. This argument was not originally contemplated in Respondent's Motion to Dismiss, and thus the IC will address this argument here.

Respondent argues that the Board did not have statutory authority to investigate Respondent in the absence of a public complaint or a reported claim of malpractice. *See Respondent's Opposition* at 11:2-13:2. Respondent cites two provisions of NRS 630 which discuss grounds for initiating an investigation (reports concerning malpractice and public complaints), and then jumps to the conclusion that the Board can *only* initiate investigations on these grounds. Respondent claims that the Board initiated an investigation based off Respondent's self-reporting of a Pharmacy Board disciplinary action, and therefore was not statutorily authorized to initiate the investigation.

However, the Board is not limited to initiating investigations solely based on malpractice reports or public complaints. NRS 630.140(1) gives authority for the Board to "conduct investigations pertaining to its duties under [NRS 630]." NRS 630.003(1)(b) grants the power and duty to the Board to determine the initial and continuing competence of physicians, physician assistants, and practitioners of respiratory care "[f]or the protection and benefit of the public." Here, Respondent self-reported that he was disciplined by the Pharmacy Board for violations of NRS 639, which naturally called into question his continuing competence as a physician. NRS 630.306(1)(b)(3) also clearly states that engaging in conduct which violates Pharmacy Board statutes and regulations, that is applicable to a practitioner, ***constitutes grounds for initiating***

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

disciplinary action. Additionally, NRS 630.130(1)(a) provides that the Board shall judiciously enforce the provisions of NRS 630.

It is absurd to suggest that an investigation may only be opened if the Board first receives either a citizen complaint or a malpractice report. Solely for example, by applying Respondent's argument, absent a citizen complaint, the Board could not open an investigation against a licensee who lies on his or her license renewal application (*see* NRS 630.304(1)), or a licensee who is convicted of murder (*see* NRS 630.301(11)(a)). Here, the Board had statutory authority to initiate an investigation against Respondent in this matter.

III. CONCLUSION

The IC respectfully requests that this Honorable Hearing Officer grant its Motion in Limine, and that Respondent's proposed witnesses two, three, four, six, and seven (2, 3, 4, 6, and 7) be excluded from testifying at the formal hearing in this matter.

DATED this 2nd day of October, 2023.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

WILLIAM P. SHOGREN
Deputy General Counsel
9600 Gateway Drive
Reno, NV 89521
Tel: (775) 688-2559
Email: shogrenw@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

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
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 2nd day of October, 2023, I served a file-stamped copy of the foregoing **INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS' REPLY IN SUPPORT OF MOTION IN LIMINE TO EXCLUDE CERTAIN WITNESSES LISTED IN RESPONDENT'S PREHEARING CONFERENCE STATEMENT** via U.S. Certified Mail and Email to the following parties:

SASSAN KAVEH, M.D.
c/o Melanie L. Thomas, Esq.
Lewis Brisbois Bisgaard & Smith, LLP
6385 S. Rainbow Blvd., Suite 600
Las Vegas, NV 89118
Melanie.Thomas@lewisbrisbois.com
Emma.Gonzales@lewisbrisbois.com

Tracking No.: 9171 9690 0935 0241 5573 39

A copy of the same was sent via Email and U.S. Regular Mail to:

NANCY L. MOSS GHUSN, ESQ.
675 W. Moana Ln., Ste. 107
Reno, NV 89509
nmg416@gmail.com
Hearing Officer

DATED this 2nd day of October, 2023.

MERCEDES FUENTES
Legal Assistant
Nevada State Board of Medical Examiners

EXHIBIT N

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **SASSAN KAVEH, M.D.,** **Respondent.**	**Case No. 23-10414-1**

FILED
OCT - 2 2023
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

ORDER DENYING RESPONDENT'S REQUEST FOR ORAL ARGUMENT

TO: William P. Shogren, J.D.
Deputy General Counsel
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, NV 89521
shogrenw@medboard.nv.gov

~and~

Sassan Kaveh, M.D.
c/o Melanie L. Thomas, Esq.
6385 South Rainbow Blvd. #600
Las Vegas, NV 89118
Melanie.Thomas@lewisbrisbois.com

From approximately September 21, 2023, through September 29, 2023, a series of emails was exchanged between undersigned Hearing Officer Nancy Moss Ghusn, William P. Shogren., Deputy General Counsel, counsel for the Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board) and Melanie L. Thomas, Esq., counsel for Respondent Sassan Kaveh, M.D., incorporated herein by reference, regarding the availability of oral argument/hearing on the record with respect to two pending motions (briefing was not yet completed) in this matter.

Counsel for the IC asserted that motions in administrative proceedings are generally submitted in writing via briefing but that he would defer to the hearing officer's discretion under that provision. Respondent's Counsel's request for oral argument on the record was included in the caption of all of Respondent's written briefing, but initially in Respondent's Motion to Dismiss, dated September 5, 2023, and Respondent's Opposition, dated September 19, 2023, to the IC's Motion in Limine, stating that Respondent wanted to have a clear record. This Hearing Officer exercised her discretion pursuant to NAC 630.460(5) and granted the request for oral argument on the record.

On September 28, 2023, however, IC Counsel sent an email that he had been made aware that NAC 630.460 had been repealed, effective June 2, 2023, and that there was not any provision that would allow for, and that he therefore objected to, any pre-hearing oral argument in administrative proceedings. Counsel for Respondent responded that the alleged underlying conduct on which the instant complaint is based occurred in 2021, the investigation occurred in 2022, and the complaint was filed in prior to the repeal of the regulation, and that the repeal of the regulation should therefore not be applied retroactively to preclude oral argument.

In his reply email, the IC asserts that it is not the underlying matter that is at issue, but whether there can be oral argument on the record in pre-hearing motions filed *after* the repeal of NAC 630.460 giving an administrative hearing officer discretion to allow oral argument. Although this Hearing Officer granted Respondent's request, the Undersigned agrees with IC's arguments set forth in the relevant emails. Specifically, the Undersigned finds that a hearing officer does not have the authority or discretion to allow oral argument on pre-hearing motion that was filed after repeal of the provision, and that this Hearing Officer's previous decision allowing such oral argument is *void ab initio*. Counsels' emails relevant to and arguing this issue are incorporated herein by reference.

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In light of the above, this Hearing Officer denies the Respondent's request for oral argument on the record of the pending pre-hearing motions.

DATED this 30th day of September, 2023.

By: *NMGhusn*

Nancy Moss Ghusn, Esq.

Administrative Hearing Officer

EXHIBIT O

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **SASSAN KAVEH, M.D.,** **Respondent.**	**Case No. 23-10414-1**

FILED
OCT 13 2023
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

ORDER DENYING RESPONDENT'S MOTION TO DISMISS

TO: William P. Shogren, J.D.
Deputy General Counsel
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, NV 89521
shogrenw@medboard.nv.gov

~and~

Sassan Kaveh, M.D.
c/o Melanie L. Thomas, Esq.
6385 South Rainbow Blvd. #600
Las Vegas, NV 89118
Melanie.Thomas@lewisbrisbois.com

On September 5, 2023, Respondent, Sassan Kaveh, M.D. ("Respondent"), by and through his attorney, Melanie Thomas, Esq. filed a Motion to Dismiss. On September 19, 2023, the Investigative Committee of the Nevada State Board of Medical Examiners ("IC"), by and through Deputy General Counsel, William P. Shogren, Esq., filed its Opposition to Motion to Dismiss, and Respondent thereafter file his Reply to same on September 25, 2023. Respondent requested oral argument on the matter, which the undersigned Hearing Officer initially granted until the IC noted that a hearing officer's discretion in allowing oral argument had been rescinded by the repeal of NAC 630.460 effective June 2, 2023, prior to the filing of the Motion to Dismiss in September 2023. Thus, by Order of October 2, 2023, the matter was submitted for decision

on the briefs. This Hearing Officer notes that, due to illness, she notified the parties of her decision to deny Respondent's Motion to Dismiss via email of October 2, 2023, directing counsel for the IC to draft a brief order, stating, in pertinent part, as follows:

> After spending significant time reviewing this matter and considering Respondent's Motion to Dismiss, the IC's Opposition and Respondent's Reply thereto, and acknowledging the practical consequence of this decision, I agree with the arguments and analysis set forth in the IC's Opposition to Respondent's Motion to Dismiss....
>
> As such, I find it appropriate to deny Respondent's Motion to Dismiss.
>
> As I heard no objections to my earlier email of September 26 regarding the drafting of an Order in light of my current circumstances, I direct Counsel for the IC to please draft an Order reflecting this Decision, in Word format so that I may edit as needed.
>
> Thank you both for your excellent work.

October 2, 2023 email from Hearing Officer

Ultimately, however, due to possibility of the proposed order bouncing between counsel, and the risk for the matter to be drawn out, this Hearing Officer decided to render a brief written Order herself.

Accordingly, summary of the arguments are as follows: In his Motion to Dismiss, Respondent asserts (A) The Medical Board Failed to Follow NRS 630.311(1) Rendering the Complaint Against Dr. Kaveh Void; (B) The Medical Board Is Barred From Seeking To Impose Reciprocal Discipline Under the Doctrine of Laches; (1) Dr. Kaveh Has A Legally Protected Property Right In His License To Practice Medicine; and (2) Dr. Kaveh Has Been Denied Due Process By The Medical Board's Failure To Implement Procedural Safeguards.

In its Opposition to Respondent's Pre-Hearing Motion to Dismiss, the IC argues (A) Respondent's Motion is Not Allowed Pursuant to NRS 622A.360; (B) Even if Respondent's Motion Were Permitted, it Lacks Merit; (B)(1) The IC Did Not Violate NRS 630.311; (B)(2) The Formal Complaint is Not Barred by the Doctrine of Laches; (B)(2)(a) Laches is Not Available Because Respondent Has a Full and Adequate Remedy at Law and This is an Action

to Enforce the Public's Rights; (B)(2)(b) Respondent Fails to Demonstrate the Requirements of Laches; and (B)(3) Respondent is Not Being Treated Differently Than Other Providers.

In his Reply in Support of Pre-Hearing Motion to Dismiss, Respondent discusses (A) the Medical Board Non-Compliance; (B) Factual Background; (C) Medical Board's Disparate Treatment and Delay Regarding Dr. Kaveh; III(A) The Medical Board Is Barred From Seeking To Impose Reciprocal Discipline Under The Doctrine Of Laches; III(A)(1) Dr. Kaveh Has A Legally Protected Property Right in His License To Practice Medicine; and III(A)(2) Dr. Kaveh Has Been Denied Due Process By The Medical Board's Failure To Implement Procedural Safeguards.

As stated in the email sent by this Hearing Officer on October 2, 2023, although it appears that Respondent may have a basis to be unhappy with the underlying facts of this case, an administrative hearing officer does not have jurisdiction or authority to dig below to the facts underlying a stipulation between the physician and an independent board that would, in effect, actually cause the underlying matter to be litigated. Respondent chose to enter into the Stipulation with the Nevada State Board of Pharmacy, and that Stipulation is the sole basis before the hearing officer.

This Hearing Officer recognizes that the Respondent properly complied with requirements to report his Stipulation with the Nevada State Board of Pharmacy. However, NRS 630.306(1)(b) states that "[t]he following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

> (b) Engaging in any conduct:
>
> (3) Which is in violation of a provision of chapter 639 of NRS, or a regulation adopted by the State Board of Pharmacy pursuant thereto, that is applicable to a licensee who is a practitioner, as defined in NRS 639.0125."

NRS 630.306(1)(b)

Based on the express language of this statute, the IC clearly has the authority to initiate disciplinary action based upon a violation of the Pharmacy Code.

In light of the above, and adopting the legal analysis found in the IC's Reply, this Hearing Officer denies the Respondent's Motion to Dismiss.

DATED this 12th day of October, 2023.

By: *NMGhusn*
Nancy Moss Ghusn, Esq.
Administrative Hearing Officer

EXHIBIT P

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **SASSAN KAVEH, M.D.,** **Respondent.**	**Case No. 23-10414-1**

FILED

OCT 17 2023

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

ORDER GRANTING THE IC'S MOTION IN LIMINE

TO: William P. Shogren, J.D.
Deputy General Counsel
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, NV 89521
shogrenw@medboard.nv.gov

~and~

Sassan Kaveh, M.D.
c/o Melanie L. Thomas, Esq.
6385 South Rainbow Blvd. #600
Las Vegas, NV 89118
Melanie.Thomas@lewisbrisbois.com

On September 19, 2023, the Investigative Committee of the Nevada State Board of Medical Examiners ("IC"), by and through Deputy General Counsel, William P. Shogren, Esq., filed its Motion In Limine. The Respondent, Sassan Kaveh, M.D., by and through his attorney, Melanie L. Thomas, Esq., filed his Opposition to the IC's Motion in Limine on September 26, 2023, and the IC thereafter file its Reply to same on October 2, 2023. Respondent requested oral argument on the matter, which the undersigned Hearing Officer initially granted until the IC noted that a hearing officer's discretion in allowing oral argument had been rescinded by the repeal of NAC 630.460

effective June 2, 2023, prior to the filing of the Motion to Dismiss in September 2023. Thus, by Order of October 2, 2023, the matter was submitted for decision on the briefs.

The IC files this Motion in Limine in response to Respondent's witnesses listed in his Prehearing Conference Statement, including the three members of the IC convened to bring this action; counsel for the IC, William P. Shogren; and the legal assistant working on this matter.

In its Motion in Limine, the IC asserts that the witnesses at issue "Cannot Testify Due to Statutory Confidentiality Provisions and Attorney-Client Privilege" pursuant to NRS 49.095, NRCP 26(b)(3)(B), and NRS 630.336(2)(c), and NRS 630.336(5), and NRS 630.336.(3)(c).

In his Opposition, Respondent disputes this assertion, stating that "the Deputy General Counsel claims he has unlimited and unrestricted attorney-client privilege over the Investigator, the Investigative Committee, the Hearing Officer presiding over this case, the members of the panel hearing and adjudicating this claim...." *Respondent's Opposition, pp. 2-3.* In addition, Respondent argues that the IC has waived its privilege based on the IC's arguments in its Opposition to Motion to Dismiss.

In its Reply, the IC asserts that the privilege was not waived as the IC generally refuted the Respondent's assertions in his Motion to Dismiss by describing the formation and composition of the IC, which is not confidential.

This Hearing Officer agrees with the IC. It is clear that NRS 630.336(3) and (4) confer the right of broad confidentiality, although not mandatory, on communication, documents, and other information. *NRS 630.336(3),(4).* As pointed out by the IC, waiver is the intentional relinquishment of a known right and is not easily waived. *See Mitchell v. Eighth Judicial Dist. Court of state ex re. County of Clark,* 131 Nev. 163, 169, 359 P. 3d 1096, 1099 (2015).

Next, the IC argues that "The Testimony of Several of Respondent's Proposed Witnesses is Irrelevant to the Charges Against Him." In his Opposition, Respondent argues that "there are repeated instances of error in the Medical Board's conduct towards Dr. Kaveh.... including repeated examples of stonewalling, bait and switch, misleading representations, modifications of documents (cured upon confrontation), that need to be explored." *Respondent's Opposition,*

p. 16, ll. 14-18. In its Reply in Support of Motion in Limine, the IC responds that the Respondent makes these assertions and elicits testimony from these witnesses in support of alleged collateral due process issues that are irrelevant to the underlying issue of Respondent's discipline from the Pharmacy Board.

This Hearing Officer agrees with the IC's arguments that any purported testimony elicited from the proposed witnesses at issue would be irrelevant to the underlying matter, i.e., the Respondent's disciplinary matter with the Pharmacy Board.

In the Opposition, Respondent additionally asserts that "The Medical Board Did Not Have Authority To Investigate Dr. Kaveh In The Absence Of A Public Complaint Or A Reported Claim Of Malpractice." *Opposition, p. 11, ll. 2-20.*

Initially, it is noted that this argument is not within the purview of the IC's Motion in Limine to exclude certain witnesses listed in Respondent's Prehearing Conference Statement. Furthermore, again, NRS 630.306(1)(b)(3) specifically gives the Nevada State Board of Medical Examiners the authority to initiate disciplinary action against a licensee who engages in conduct which is in violation of Chapter 639 of the Nevada Revised Statutes.

Once again, this Hearing Officer recognizes that although the Respondent properly admirably complied with requirements to report his Stipulation with the Nevada State Board of Pharmacy, NRS 630.306(1)(b) states that "[t]he following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

> (b) Engaging in any conduct:
>
> (3) Which is in violation of a provision of chapter 639 of NRS, or a regulation adopted by the State Board of Pharmacy pursuant thereto, that is applicable to a licensee who is a practitioner, as defined in NRS 639.0125."

NRS 630.306(1)(b)(3)

Thus, Respondent's assertion the Board does not have authority to investigate a licensee in the absence of a public claim or a reported claim of malpractice is irrelevant to the issue of whether the proposed witnesses should be allowed or excluded from providing testimony at

Respondent's testimony. Based on the express language of NRS 630.306(1)(b)(3), the Nevada State Board of Medical Examiners clearly has the authority to initiate disciplinary action based upon a violation of the Pharmacy Code.

In light of the above, this Hearing Officer grants the IC's Motion In Limine To Exclude Certain Witnesses Listed In Respondent's Prehearing Conference Statement.

DATED this 17th day of October, 2023.

By: *NMGhusn*
Nancy Moss Ghusn, Esq.
Administrative Hearing Officer

EXHIBIT Q

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: SASSAN KAVEH, M.D., Respondent.	**Case No. 23-10414-1**

FILED

NOV 29 2023

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

AMENDED SCHEDULING ORDER

TO: William P. Shogren
Deputy General Counsel
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, NV 89521
shogrenw@medboard.nv.gov

~and~

Sassan Kaveh, M.D.
c/o Melanie L. Thomas, Esq.
6385 South Rainbow Blvd. #600
Las Vegas, NV 89118
Melanie.Thomas@lewisbrisbois.com

On August 8, 2023, 2023, an Early Case Conference was held via *Zoom* conference call. Together with Hearing Officer Nancy Moss Ghusn, William P. Shogren., Deputy General Counsel, appeared on behalf of the Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board) and Melanie L. Thomas, Esq., appeared on behalf of Respondent Sassan Kaveh, M.D.

In compliance with Nevada Administrative Code 630.465, a prehearing conference was conducted on **September 11, 2023, via *Zoom.***

The Parties have already exchanged witness and documents intended for use at the hearing on or before the pre-hearing conference. This list shall include the qualifications and anticipated testimony of the witness and the Bates stamp numbers on each of the exhibits. If a witness is not

included on the list, that witness may not be allowed to testify at the hearing unless good cause is shown for their testimony. Likewise, if a document has not been listed in a prehearing conference statement, it may not be admitted into evidence unless good cause is shown for its admittance.

All motions have been submitted and decisions rendered. **The formal hearing in this matter has been rescheduled for December 15, 2023, at 9:00 a.m.** and will be located in the conference room of the northern offices of the Nevada State Board of Medical Examiners, 9600 Gateway Drive, Reno, Nevada. Should it be necessary for appearances in Las Vegas, the Southern Office is located at 325 E. Warm Springs Road, Ste. 225, Las Vegas, Nevada. A court reporter will take sworn testimony during the formal hearing and will produce a transcript to the hearing officer and all parties at their request and at their expense.

Once the formal hearing is concluded the hearing officer will submit to the Board a synopsis of the testimony recorded by the court reporter and will 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. *See* NAC 630.470.

If a witness wishes to appear remotely[1] a request must be made to the hearing officer and the hearing officer must approve via order for appearance by the witness remotely. A request must be made in writing for a remote appearance on a date to be determined at the Pre-Hearing Conference.

Stipulation to stay the above dates shall be made to the hearing officer either by email or by formal, filed stipulation as soon as the parties are aware of the necessity for a stay. Any stay request will require a status conference to be set unless a formal settlement agreement is being presented to the Board at the next regularly held Board meeting. If a formal settlement agreement is being placed on the Board meeting agenda, notification of acceptance or denial of the settlement agreement by the Board shall be delivered to this hearing officer no later than five (5) days after the Board meeting by the Board attorney.

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[1] Remotely means witness appearances not occurring in the Las Vegas office or Reno office of the Nevada State Board of Medical Examiners.

All parties to this case are required to keep the hearing office informed of events, progress and resolution of this case.

IT IS SO ORDERED.

DATED this 28th day of November, 2023.

NANCY MOSS GHUSN, ESQ.
Email: nmg416@gmail.com
Tel: (775) 772-5644
Administrative Hearing Officer

EXHIBIT R

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **SASSAN KAVEH, M.D.,** **Respondent.**	**Case No. 23-10414-1**

FILED

DEC 18 2023

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

ORDER GRANTING RESPONDENT'S REQUEST TO STAY HEARING

TO: William P. Shogren, J.D.
Deputy General Counsel
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, NV 89521
shogrenw@medboard.nv.gov

~and~

Sassan Kaveh, M.D.
c/o Melanie L. Thomas, Esq.
6385 South Rainbow Blvd. #600
Las Vegas, NV 89118
Melanie.Thomas@lewisbrisbois.com

From approximately December 5, 2023, through December 11, 2023, a series of emails was exchanged between undersigned Hearing Officer Nancy Moss Ghusn, William P. Shogren., Deputy General Counsel, counsel for the Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board) and Melanie L. Thomas, Esq., counsel for Respondent Sassan Kaveh, M.D., incorporated herein by reference, regarding Respondent's Request to Stay his hearing that was set for December 15, 2023, in this matter. IC Counsel requested formal briefing, which was denied due to the lack of time prior to the beginning of the scheduled hearing.

In short, Respondent's request was based on the Board's agreement at its December 1, 2023 meeting, with Respondent's Counsel request to obtain an advisory opinion that grew directly out of and would directly impact the resolution of the instant hearing. Counsel for the IC opposed Respondent's request by email of December 11, 2023, with Respondent's Counsel replying that same day. These emails shall be incorporated and attached herein as exhibits for reference to this Order.

After reviewing the arguments and any materials attached, I agree with Ms. Thomas. It is appropriate to hold Respondent's hearing in abeyance/postpone to avoid a waste of time and resources for all involved while this issue is being settled. Indeed, it is possible if a hearing is held that any findings and recommendations would have to be completely unwound, depending upon the ultimate outcome of an advisory opinion.

For these reasons, I have by email of December 11, 2023, and am granting the Respondent's request to postpone the hearing currently scheduled for Friday, December 15, 2023

DATED this 14th day of December 2023.

By: *NMGhusn*

Nancy Moss Ghusn, Esq.

Administrative Hearing Officer

EXHIBIT 1

EXHIBIT 1

From: Thomas, Melanie <Melanie.Thomas@lewisbrisbois.com>
Sent: Tuesday, December 5, 2023 4:03 PM
To: NM G <nmg416@gmail.com>
Cc: Gonzales, Emma <Emma.Gonzales@lewisbrisbois.com>; William Shogren <shogrenw@medboard.nv.gov>; Mercedes Fuentes <fuentesm@medboard.nv.gov>; Sassan Kaveh <skaveh65@gmail.com>
Subject: RE: Sassan Kaveh, M.D., Case No. 23-10414-1 Request to Stay 12/15/23 Hearing
Importance: High

WARNING - This email originated from outside the State of Nevada. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good Afternoon Ms. Ghusn:

Please allow this correspondence to serve as Dr. Kaveh's request to stay the pending formal hearing on December 15, 2023.

You may not be aware, but Dr. Kaveh filed a Petition for Advisory Opinion on October 31, 2023, which was presented to the full Board at the December 1, 2023 meeting. The same is attached for your records only, but not intended to be a basis to incur additional fees and costs against Dr. Kaveh for the time spent on review. The petition was submitted under NAC 630.450:

NAC 630.450 Declaratory orders and advisory opinions. (NRS 630.130)

1. A petition for a declaratory order or advisory opinion may be filed only by a holder of or applicant for a license.
2. The original and 12 copies of the petition must be filed with the Board not less than 31 days before its next regularly scheduled meeting. The petition must be submitted to the Board at that meeting. Within 30 days thereafter, the Board will issue its declaratory order or advisory opinion.

[Bd. of Medical Exam'rs, § 630.450, eff. 12-20-79]—(NAC A 6-23-86; R149-97, 3-30-98; R002-14, 6-26-2015)

The Board recognized that the Code provides them 30 days to issue the advisory opinion, but requested special consideration to have this matter placed on the agenda for the March 2024 meeting. The Board and/or the Attorney General's office will be issuing the advisory opinion sought by the Petition. Nearly all of the Board members eligible to vote on Dr. Kaveh's matter at issue in the discipline case, expressed a strong desire to have the Petition considered and felt it was a matter of great importance. The Attorney General representative at the hearing, offered to get involved in helping draft the opinion if necessary. As such, Dr. Kaveh was willing to waive any objection to the Board's request to continue the matter to the March 2024 meeting.

The forthcoming advisory opinion bears directly on core issues in the Board's prosecution of this case, including its authority to prosecute the same. These proceedings must be stayed until the advisory opinion has been authored and released.

Will you accept this correspondence as Dr. Kaveh's request to stay these proceedings pending the Board's Advisory Opinion on whether formal disciplinary proceedings may be initiated in the absence of a citizen complaint and in the absence of a report of malpractice? Or will I be required to file a formal motion? Thank you.

Melanie



Melanie L. Thomas
Partner
Melanie.Thomas@lewisbrisbois.com

T: 702.693.1718 F: 702.366.9563

6385 South Rainbow Blvd., Suite 600, Las Vegas, NV 89118 | **LewisBrisbois.com**

Representing clients from coast to coast. View our locations nationwide.



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From: **William Shogren** <shogrenw@medboard.nv.gov>
Date: Wed, Dec 6, 2023 at 3:40 PM
Subject: RE: Sassan Kaveh, M.D., Case No. 23-10414-1 Request to Stay 12/15/23 Hearing
To: Thomas, Melanie <Melanie.Thomas@lewisbrisbois.com>, NM G <nmg416@gmail.com>
Cc: Gonzales, Emma <Emma.Gonzales@lewisbrisbois.com>, Mercedes Fuentes <fuentesm@medboard.nv.gov>, Sassan Kaveh <skaveh65@gmail.com>

Good afternoon,

In response to Ms. Thomas' email below, the IC would respectfully request that Ms. Ghusn require the filing of a formal motion on this issue, so that the IC may file a response. We somewhat disagree with Ms. Thomas' representations of what occurred during the December 1st Board meeting, and disagrees with the need for a continuance of the hearing scheduled next week.

Thank you.

William P. Shogren, J.D.

Deputy General Counsel

Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, NV 89521
(775) 324-9366
shogrenw@medboard.nv.gov

From: **NM G** <nmg416@gmail.com>
Date: Wed, Dec 6, 2023 at 3:46 PM
Subject: Re: Sassan Kaveh, M.D., Case No. 23-10414-1 Request to Stay 12/15/23 Hearing
To: William Shogren <shogrenw@medboard.nv.gov>
Cc: Thomas, Melanie <Melanie.Thomas@lewisbrisbois.com>, Gonzales, Emma <Emma.Gonzales@lewisbrisbois.com>, Mercedes Fuentes <fuentesm@medboard.nv.gov>, Sassan Kaveh <skaveh65@gmail.com>
Good Afternoon, All-

I was just drafting my response (as I had not heard from Mr. Shogren) when this came in. If this cannot be resolved more informally in the interest of time and resources, I will have to grant the request for formal briefing.

Please let me know as this hearing is, as you both know, quickly approaching.

Thank you.

Kind regards,

Nancy Moss Ghusn, Esq.
Administrative Hearing Officer

From: **Thomas, Melanie** <Melanie.Thomas@lewisbrisbois.com>
Date: Wed, Dec 6, 2023 at 3:52 PM
Subject: RE: Sassan Kaveh, M.D., Case No. 23-10414-1 Request to Stay 12/15/23 Hearing
To: William Shogren <shogrenw@medboard.nv.gov>, NM G <nmg416@gmail.com>
Cc: Gonzales, Emma <Emma.Gonzales@lewisbrisbois.com>, Mercedes Fuentes <fuentesm@medboard.nv.gov>, Sassan Kaveh <skaveh65@gmail.com>, Weaver, Keith <Keith.Weaver@lewisbrisbois.com>

Actually, good point.

William, why don't you pull the audio recording from the hearing and circulate it to me, and I will personally pull the excerpt related to the Petition for Advisory Opinion? If you are unable to access the same, please provide me with Ms. Munson's email and/or telephone number so I can contact her directly to obtain the same. I will quote the Board members directly. Given that you weren't there William, this should be helpful for you too since I did hear it firsthand and stand by my representations. I've also copied my partner, Keith Weaver, Esq. who was also present before the Board and able to affirm my representations below. Pulling the audio from the hearing is the quickest, easiest way to get to the bottom of this given that my representations are being challenged.

How soon can you produce the full audio to me, William? Please put me in touch with the person to facilitate the exchange if it won't be you. Thanks.

Melanie

Melanie L. Thomas
Partner
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From: **Thomas, Melanie** <Melanie.Thomas@lewisbrisbois.com>
Date: Wed, Dec 6, 2023 at 4:14 PM
Subject: RE: [EXT] Re: Sassan Kaveh, M.D., Case No. 23-10414-1 Request to Stay 12/15/23 Hearing
To: NM G <nmg416@gmail.com>, William Shogren <shogrenw@medboard.nv.gov>
Cc: Gonzales, Emma <Emma.Gonzales@lewisbrisbois.com>, Mercedes Fuentes <fuentesm@medboard.nv.gov>, Sassan Kaveh <skaveh65@gmail.com>, Weaver, Keith <Keith.Weaver@lewisbrisbois.com>

Ms. Ghusn:

Mr. Shogren was not present at the Board meeting on 12/1, I was. I presented the Petition to the full Board, and stand by my representations regarding the proceedings and the comments received from the Board. Mr. Shogren "somewhat disagrees" with my representations, but does not specify which ones. Perhaps, you could direct him to clarify this so I know where to focus my attention in this emergency briefing I will now have to prepare.

Further, are you able to get me the audio recording from the Board meeting so that I can get to work on this brief? My entire argument will be transcribing the comments of the Board and their commitment to consider the Petition and issue an advisory opinion. I cannot get started without the requisite recording which is in the sole possession, custody, and control of the Board. I am without recourse without Board cooperation. I could attempt to obtain affidavits from Mr. Weaver and Ms. Hueth (another local attorney present for the 12/1 meeting) to mirror my representations. However, most expeditiously and logically, Mr. Shogren should clarify what he "somewhat disagrees" with, which is necessarily based on second hand information.

Thanks all.

Melanie L. Thomas
Partner
Melanie.Thomas@lewisbrisbois.com

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From: **NM G** <nmg416@gmail.com>
Date: Wed, Dec 6, 2023 at 4:59 PM
Subject: Re: [EXT] Re: Sassan Kaveh, M.D., Case No. 23-10414-1 Request to Stay 12/15/23 Hearing
To: Thomas, Melanie <Melanie.Thomas@lewisbrisbois.com>
Cc: William Shogren <shogrenw@medboard.nv.gov>, Gonzales, Emma <Emma.Gonzales@lewisbrisbois.com>, Mercedes Fuentes <fuentesm@medboard.nv.gov>, Sassan Kaveh <skaveh65@gmail.com>, Weaver, Keith <Keith.Weaver@lewisbrisbois.com>
Counsel-

First of all, I have expressed preference for a resolution that would save time and resources with our time constraints.

Mr. Shogren, I agree with Ms. Thomas under these circumstances. There should be an answer to this upon a review of how the Board addressed this issue, and counsel for the Respondent should also have access to the transcript, minutes, recording, whatever. Please provide the same as soon as possible so we can resolve this issue with clarity and based on the actual facts rather than speculation. How soon are you able to access a record of the meeting? Tomorrow would be preferable.

Thank you.

Nancy Moss Ghusn, Esq.
Administrative Hearing Officer

From: **Mercedes Fuentes** <fuentesm@medboard.nv.gov>
Date: Thu, Dec 7, 2023 at 8:43 AM

Subject: RE: [EXT] Re: Sassan Kaveh, M.D., Case No. 23-10414-1 Request to Stay 12/15/23 Hearing
To: Thomas, Melanie <Melanie.Thomas@lewisbrisbois.com>
Cc: William Shogren <shogrenw@medboard.nv.gov>, Gonzales, Emma <Emma.Gonzales@lewisbrisbois.com>, Sassan Kaveh <skaveh65@gmail.com>, Weaver, Keith <Keith.Weaver@lewisbrisbois.com>, NM G <nmg416@gmail.com>

Good Morning Ms. Thomas,

I am working on gathering the audio recording from the Board meeting, and I just wanted to clarify – are you looking to obtain the entire recording of the Board meeting or just Item 12 for the Petition?

Respectfully,

Mercedes Fuentes
Legal Assistant to:
Sarah A. Bradley, J.D., MBA, Deputy Executive Director
William P. Shogren, Deputy General Counsel
NEVADA STATE BOARD OF MEDICAL EXAMINERS
9600 Gateway Drive, Reno, NV 89521
Tel: (775) 324-9380
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fuentesm@medboard.nv.gov

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From: **Thomas, Melanie** <Melanie.Thomas@lewisbrisbois.com>
Date: Thu, Dec 7, 2023 at 8:50 AM

Subject: RE: [EXT] Re: Sassan Kaveh, M.D., Case No. 23-10414-1 Request to Stay 12/15/23 Hearing
To: Mercedes Fuentes <fuentesm@medboard.nv.gov>
Cc: William Shogren <shogrenw@medboard.nv.gov>, Gonzales, Emma <Emma.Gonzales@lewisbrisbois.com>, Sassan Kaveh <skaveh65@gmail.com>, Weaver, Keith <Keith.Weaver@lewisbrisbois.com>, NM G <nmg416@gmail.com>

It would probably be easier for you (and less expensive for my client) for you to obtain the entire audio and for me to excerpt the agenda item myself. I do not seek to drive up any further costs for Dr. Kaveh, particularly given that the Board will be considering his Petition cost-free to him. If you are able to obtain the excerpt without additional work or expense, please pull the agenda item before and after the Petition to ensure that all complete audio is provided. Thank you.

Melanie

LEWIS BRISBOIS

Melanie L. Thomas
Partner
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From: **Thomas, Melanie** <Melanie.Thomas@lewisbrisbois.com>
Date: Mon, Dec 11, 2023 at 9:21 AM
Subject: RE: [EXT] Re: Sassan Kaveh, M.D., Case No. 23-10414-1 Request to Stay 12/15/23 Hearing
To: NM G <nmg416@gmail.com>
Cc: William Shogren <shogrenw@medboard.nv.gov>, Gonzales, Emma <Emma.Gonzales@lewisbrisbois.com>, Mercedes Fuentes <fuentesm@medboard.nv.gov>, Sassan Kaveh <skaveh65@gmail.com>, Weaver, Keith <Keith.Weaver@lewisbrisbois.com>

Ms. Fuentes provided the audio recording. Unfortunately, it was of poor quality and difficult to hear. I've prepared the attached summary with time stamps related to this issue.

Would you still like to brief prepared on a motion to stay? (As you'll recall, I did name these Board members on the witnesses list, to call them to testify on these exact issues, but you did accept Mr. Shogren's motion in limine and denied Dr. Kaveh's ability to present any witnesses in this action outside the Board investigator and himself). Their statements at the hearing are consistent with the testimony I expected from them at the hearing.

The Board counsel admits there isn't a lot in the statutes or regulations regarding the disciplinary process. Nonetheless, do you require this to be placed in a formal brief in order to consider Dr. Kaveh's request? We would like to amend our disclosures to include the audio recording from the 12/1 hearing as an exhibit in any event. Please advise promptly so I can make arrangements to prepare a brief. Thanks.

Melanie



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From: **NM G** <nmg416@gmail.com>
Date: Mon, Dec 11, 2023 at 10:19 AM
Subject: Re: [EXT] Re: Sassan Kaveh, M.D., Case No. 23-10414-1 Request to Stay 12/15/23 Hearing
To: Thomas, Melanie <Melanie.Thomas@lewisbrisbois.com>
Cc: William Shogren <shogrenw@medboard.nv.gov>, Gonzales, Emma <Emma.Gonzales@lewisbrisbois.com>, Mercedes Fuentes <fuentesm@medboard.nv.gov>, Sassan Kaveh <skaveh65@gmail.com>, Weaver, Keith <Keith.Weaver@lewisbrisbois.com>

Good Morning All-

Mr. Shogren, any response? Please respond as soon as possible today, sooner rather than later. Obviously there is not enough time for formal briefing.

Thank you.

Nancy Moss Ghusn, Esq.
Administrative Hearing Officer

From: **William Shogren** <shogrenw@medboard.nv.gov>
Date: Mon, Dec 11, 2023 at 11:32 AM
Subject: RE: [EXT] Re: Sassan Kaveh, M.D., Case No. 23-10414-1 Request to Stay 12/15/23 Hearing
To: NM G <nmg416@gmail.com>, Thomas, Melanie <Melanie.Thomas@lewisbrisbois.com>
Cc: Gonzales, Emma <Emma.Gonzales@lewisbrisbois.com>, Mercedes Fuentes <fuentesm@medboard.nv.gov>, Sassan Kaveh <skaveh65@gmail.com>, Weaver, Keith <Keith.Weaver@lewisbrisbois.com>

Good morning,

The IC would oppose Dr. Kaveh's request to stay the hearing pending resolution of Dr. Kaveh's Petition for Advisory Opinion. Dr. Kaveh petitioned the Board for an advisory opinion on an issue of general applicability, regarding the authority to open investigations and file formal complaints. This is a separate issue than whether Dr. Kaveh violated NRS 630, which is the basis for the formal evidentiary hearing.

Further, Dr. Kaveh has in this case raised the issue of whether disciplinary proceedings may be instituted against a licensee in the absence of a citizen complaint and in the absence of a report of malpractice; both in Dr. Kaveh's reply in support of his Motion to Dismiss, and in his Opposition to the IC's Motion in Limine. In both instances, Ms. Ghusn issued an order, finding that the Board/IC has the authority to initiate disciplinary action based upon a violation of the Pharmacy Code. *See* Order Granting the IC's Motion in Limine, at 3:8-4:4. This issue has already been briefed and decided upon in this case.

Lastly, staying the hearing pending the resolution of the Petition for Advisory Opinion would cause undue delay. As reflected in Ms. Thomas' summary of the Board minutes, Dr. Kaveh's Petition was tabled until the Board's March 2024 meeting. What the Board will do at that meeting is unknown, however, an advisory opinion would not be issued at that meeting (it would need to be drafted subsequently should the Board decide to issue one) causing the resolution of the Petition to be moved to a future date past March 2024. This is an undue delay for a hearing on a relatively simple issue.

William P. Shogren, J.D.

Deputy General Counsel
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, NV 89521
(775) 324-9366
shogrenw@medboard.nv.gov

On Mon, Dec 11, 2023 at 12:24 PM Thomas, Melanie <Melanie.Thomas@lewisbrisbois.com> wrote:

Respectfully, I'd like to respond to Mr. Shogren's statements below. Please see in **red.** But first, I would like to note, that Mr. Shogren originally stated that he disagreed with my representations regarding the exchange with the full Board on 12/1. Now, he makes no argument to support the "disagreement" he had with my representations, and instead focuses on why he feels it would be appropriate to disregard Dr. Kaveh's valid concerns and steamroll forward with this hearing that truly amounts to no more than summary proceedings given the denial of Dr. Kaveh to challenge jurisdiction and/or otherwise present witnesses to evidence the lack of the same.



Melanie L. Thomas
Partner
Melanie.Thomas@lewisbrisbois.com

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From: William Shogren <shogrenw@medboard.nv.gov>
Sent: Monday, December 11, 2023 11:32 AM
To: NM G <nmg416@gmail.com>; Thomas, Melanie <Melanie.Thomas@lewisbrisbois.com>
Cc: Gonzales, Emma <Emma.Gonzales@lewisbrisbois.com>; Mercedes Fuentes <fuentesm@medboard.nv.gov>; Sassan Kaveh <skaveh65@gmail.com>; Weaver, Keith <Keith.Weaver@lewisbrisbois.com>
Subject: RE: [EXT] Re: Sassan Kaveh, M.D., Case No. 23-10414-1 Request to Stay 12/15/23 Hearing

Good morning,

The IC would oppose Dr. Kaveh's request to stay the hearing pending resolution of Dr. Kaveh's Petition for Advisory Opinion. Dr. Kaveh petitioned the Board for an advisory opinion on an issue of general applicability, regarding the authority to open investigations and file formal complaints. This is a separate issue than whether Dr. Kaveh violated NRS 630, which is the basis for the formal evidentiary hearing. **This is not a separate issue, this is the issue. If the Board/Attorney General follow legislative interpretation and review the legislative history, there is no ambiguity in these statutes. This is the epitome of a basis to stay these proceedings pending the advisory opinion. Dr. Kaveh should not be forced to incur the expenses of going through this process if the Board, or specifically Mr. Shogren, didn't have the authority to initiate the process to begin with. Respectfully, this Hearing Officer's ruling on motions in *this* case, does not negate, define, or limit Dr. Kaveh's rights under NAC 630.450**

and NRS 233B. Dr. Kaveh has challenged Mr. Shogren/the Board's authority to initiate formal disciplinary proceedings outside very limited statutorily enumerated contexts, that are not present in this case. The attorney general Ms. Harris already found that this was appropriately and properly presented. The empaneled entire Board of Medical Examiners already said they would be evaluating the Petition, Mr. Shogren has presented no evidence to the contrary.

The President of the BME agreed that "this is an important topic that needs clarification. I would like to seriously take this matter up and weed through this." AG Harris acknowledged the petition was appropriately brought and warranted a response, Mr. Shogren has presented no evidence to the contrary. The Board agreed this was an important issue, and they were not prepared to deliberate on it publicly at the time. The Board wants to take this issue up, there is no valid reason to circumvent that process when it could result in finding that there is a lack of jurisdiction here. Dr. Kaveh cannot recoup his costs incurred in these proceedings, and it is quite burdensome and unfair at this point when a valid challenge has been raised.

Further, Dr. Kaveh has in this case raised the issue of whether disciplinary proceedings may be instituted against a licensee in the absence of a citizen complaint and in the absence of a report of malpractice; both in Dr. Kaveh's reply in support of his Motion to Dismiss, and in his Opposition to the IC's Motion in Limine. In both instances, Ms. Ghusn issued an order, finding that the Board/IC has the authority to initiate disciplinary action based upon a violation of the Pharmacy Code. *See* Order Granting the IC's Motion in Limine, at 3:8-4:4. This issue has already been briefed and decided upon in this case. **We have respectfully disagreed with Ms. Ghusn's finding in that regard. You will note the issue was included in the Petition, specifically statutorily limiting language related to "controlled substances" which are not at issue in this case. Again, as respectfully as possible, this is Dr. Kaveh's professional reputation and livelihood at stake and he is entitled to seek the interpretation of the provisions this Board seeks to enforce, including through escalating this to the level of the attorney general. The Board itself was not prepared to discuss the very statutes it is tasked with enforcing. This suggests to me that they are relying on people like you Mr. Shogren, to accurately and fairly convey to them the limitations of their authority as Board members. It was clear in sitting through the entire Board meeting that the Board looks almost exclusively to the attorneys to direct their conduct to ensure it conforms to the law. That is a huge problem when they are getting errant legal advice. It is catastrophic. Respectfully, I have challenged your authority to bring these proceedings. You have foreclosed my ability to argue these motions by challenging them on some newly mid-proceedings changed laws, and been successful in convincing Ms. Ghusn of *your* interpretation. But see, the Board members had the same questions I did. I explained the limitations in the law, and asked them to confirm the same in issuing an declaratory order or advisory opinion. They needed help. The Attorney General Ms. Harris agreed that was an appropriate Petition. Your colleague Ms. Bradley agreed there was limited guidelines on the process. What we disagree on, is the scope of the unwritten authority you seem to think you have beyond the plain statutory language. There is absolutely no disadvantage to letting someone higher up check your work and issue the lawfully sought opinion that would put all your licensees on notice. No downside at all. The harm comes to Dr. Kaveh if you report invalid discipline to the powers that be (NPDB etc), and create a procedural nightmare for him to navigate to later undo your improper reporting should the Board find in the manner sought by Dr. Kaveh.**

Lastly, staying the hearing pending the resolution of the Petition for Advisory Opinion would cause undue delay. **Again, Mr. Shogren is not stating a disagreement to my representations regarding the exchange with the Board on 12/1, he's just asking you to deny Dr. Kaveh's opportunity to obtain**

relief. Mr. Shogren previously denied that the 19 month+ delay in initiating (what amounts to summary) proceedings against Dr. Kaveh was reasonable. He fails to state how this requested stay is "undue" when in fact it is more than "due." He gives no examples. Is he in a rush to fire off a reporting to the Data Bank? I mean seriously, the Board owes its licensees fairness in the types of proceedings. This forthcoming opinion can only go two ways, Dr. Kaveh's or Mr. Shogren's. There is no middle ground interpretation. The Board will have to analyze and cite to the statutes they rely upon. Either it will mirror what Dr. Kaveh has set forth, or it will adopt some variation of Mr. Shogren's position that the Board can do whatever it wants whenever it wants. The attorneys that represent licensees before your Board are entitled to notice that the statutes mean something other than what exists clearly on their faces (if that ends of being the Board's position on the Petition), so we can advise our clients of the consequences of settling with other Boards in the absence of patient care complaints and/or litigation. This problem has bigger implications than you acknowledge. As reflected in Ms. Thomas' summary of the Board minutes, Dr. Kaveh's Petition was tabled until the Board's March 2024 meeting. What the Board will do at that meeting is unknown, however, an advisory opinion would not be issued at that meeting (it would need to be drafted subsequently should the Board decide to issue one) causing the resolution of the Petition to be moved to a future date past March 2024. This is an undue delay for a hearing on a relatively simple issue. **Again, the President of the Board, Dr. Spirtos stated he wanted to "weed through" this and "seriously consider" it. If Mr. Shogren is suggesting the Board members were being less than genuine in their representations to me or giving me lip service, that is not Dr. Kaveh's burden to second guess their integrity or representations. He is entitled to believe them and take them at their word. It is starting to look like the Board is relying on counsel to tell them how to do their jobs, and if that counsel is giving bad advice, this needs the AG's involvement and a formal position taken so this can be escalated where it needs to go.**

If this matter is forced to proceed in the interim and Dr. Kaveh's stay is denied, all of these issues and irregularities are going to be brought before the Board in March 2024 when Dr. Kaveh and I appear to challenge again, these proceedings and present all these unreasonable positions. There is a good record made of all my attempts to be reasonable and keep costs down, and work toward a just and fair end. I am confident that the record supports these good faith efforts to engage reasonably with you, and likewise will reflect the response to which Dr. Kaveh was met in return. There is no harm in waiting on the Advisory Opinion. The status quo can safely be maintained for both sides. There is no restriction being sought on Dr. Kaveh's ability to practice medicine, there are no patient safety concerns. There is no reason to disrupt the status quo pending the determination on Dr. Kaveh's Petition.

From: **NM G** <nmg416@gmail.com>
Date: Mon, Dec 11, 2023 at 1:11 PM
Subject: Re: [EXT] Re: Sassan Kaveh, M.D., Case No. 23-10414-1 Request to Stay 12/15/23 Hearing
To: Thomas, Melanie <Melanie.Thomas@lewisbrisbois.com>
Cc: William Shogren <shogrenw@medboard.nv.gov>, Gonzales, Emma <Emma.Gonzales@lewisbrisbois.com>, Mercedes Fuentes <fuentesm@medboard.nv.gov>, Sassan Kaveh <skaveh65@gmail.com>, Weaver, Keith <Keith.Weaver@lewisbrisbois.com>

Good Afternoon, All-

After reviewing the arguments and any materials attached, I am in agreement with Ms. Thomas. It is appropriate to hold Respondent's hearing in abeyance/postpone to avoid a waste of time and resources for all involved while this issue is being settled. Indeed, it is possible if a hearing is held that any findings and recommendations would have to be completely unwound, depending upon the ultimate outcome of an advisory opinion.

For these reasons, I am granting the Respondent's request to postpone the hearing currently scheduled for Friday, December 15, 2023, and will follow this email up with a brief order reflecting the same.

Thank you for your time and promptly addressing this issue.

Kind Regards,

Nancy Moss Ghusn, Esq.
Administrative Hearing Officer

EXHIBIT S

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against

SASSAN KAVEH, M.D.,

Respondent.

Case No. 23-10414-1

Hearing Date: TBD

ORDER SCHEDULING STATUS CONFERENCE

TO: William P. Shogren
Deputy General Counsel
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, Nevada 89521

Sassan Kaveh, M.D.
c/o Melanie L. Thomas, Esq.
Lewis Brisbois Bisgaard & Smith, LLP
6385 S. Rainbow Blvd., Ste 600
Las Vegas, NV 89118

FILED

MAR 29 2024

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

A status conference will be conducted for this matter on **Thursday, April 11, 2024, at 10:30 a.m.**, Pacific Standard Time, and will be held via a conference call. Unless directed otherwise prior to the scheduled date and time, the conference call number will be 1-605-475-2200 and the access code will be 8792457. The parties shall participate in the conference call by and through counsel.

DATED this 29th day of March 2024.

By: _____
Patricia Halstead, Esq.
Hearing Officer

CERTIFICATE OF SERVICE

I certify that on this day, I personally delivered or mailed, postage pre-paid, at Reno, Nevada, a true file-stamped copy of the foregoing ORDER SCHEDULING STATUS CONFERENCE addressed as follows:

William P. Shogren
Deputy General Counsel
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, Nevada 89521

Sassan Kaveh, M.D.
c/o Melanie L. Thomas, Esq.
Lewis Brisbois Bisgaard & Smith, LLP
6385 S. Rainbow Blvd., Ste 600
Las Vegas, NV 89118

9171 9690 0935 0241 6249 18

DATED this 3rd day of April 2024.

Signature

Mercedes Fuentes
Print

Legal Assistant
Title

EXHIBIT T

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against SASSAN KAVEH, M.D., Respondent.	Case No. 23-10414-1 Hearing Date: June 13-14, 2024, commencing at 8:30 a.m. each day

ORDER SCHEDULING EVIDENTIARY HEARING

FILED
APR 15 2024
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By: _____

TO: William P. Shogren
Deputy General Counsel
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, Nevada 89521

Sassan Kaveh, M.D.
c/o Melanie L. Thomas, Esq.
Lewis Brisbois Bisgaard & Smith, LLP
6385 S. Rainbow Blvd., Ste 600
Las Vegas, NV 89118

The evidentiary hearing for this matter is hereby scheduled for **June 13, 2024 through June 14, 2024**, starting at 8:30 a.m., Pacific Standard Time, each day. Unless otherwise determined, counsel for the IC; the undersigned hearing officer; Respondent; and Respondent's counsel shall attend from the Reno office of the Nevada State Board of Medical Examiners, 9600 Gateway Drive, Reno, Nevada 89521.

Following the hearing, the undersigned hearing officer will submit to the Board written findings and recommendations pursuant to NRS 622A.300 that, pursuant to NAC 630.470, will include a synopsis of the testimony taken at the hearing as well as a recommendation on the veracity of witnesses if there is conflicting evidence or if credibility of witnesses is a determining factor. Thereafter the Board will render its decision. NAC 630.470.

Should the parties deem a status conference necessary at any juncture of the proceeding, they shall coordinate at least three proposed dates and times and may jointly email the undersigned hearing officer with the proposed dates and times and request a status conference and state the basis for the request.

Both parties shall keep the undersigned hearing officer apprised of each issue that has been resolved by negotiation or stipulation or any other change in the status of this case.

DATED this 15th day of April 2024.

By: _____

Patricia Halstead, Esq.
Hearing Officer

CERTIFICATE OF SERVICE

I certify that on this day, I personally delivered or mailed, postage pre-paid, at Reno, Nevada, a true file-stamped copy of the foregoing ORDER SCHEDULING EVIDENTIARY HEARING addressed as follows:

William P. Shogren
Deputy General Counsel
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, Nevada 89521

Sassan Kaveh, M.D.
c/o Melanie L. Thomas, Esq.
Lewis Brisbois Bisgaard & Smith, LLP
6385 S. Rainbow Blvd., Ste 600
Las Vegas, NV 89118

9171 9690 0935 0241 6271 24

DATED this 15th day of April 2024.

Signature

Mercedes Fuentes
Print

Legal Assistant
Title

EXHIBIT U

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against SASSAN KAVEH, M.D., Respondent.	Case No. 23-10414-1 Hearing Date: August 29-30, 2024, commencing at 8:30 a.m. each day

ORDER CONTINUING SCHEDULING EVIDENTIARY HEARING
(First Continuance)

FILED
MAY 15 2024
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

TO: William P. Shogren
Deputy General Counsel
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, Nevada 89521

Sassan Kaveh, M.D.
c/o Melanie L. Thomas, Esq.
Lewis Brisbois Bisgaard & Smith, LLP
6385 S. Rainbow Blvd., Ste 600
Las Vegas, NV 89118

At the request of Respondent's counsel and due to a conflicting trial schedule, the evidentiary hearing for this matter is hereby continued to **August 29, 2024 through August 30, 2024**, starting at 8:30 a.m., Pacific Standard Time, each day. Unless otherwise determined, counsel for the IC; the undersigned hearing officer; Respondent; and Respondent's counsel shall attend from the Reno office of the Nevada State Board of Medical Examiners, 9600 Gateway Drive, Reno, Nevada 89521.

Following the hearing, the undersigned hearing officer will submit to the Board written findings and recommendations pursuant to NRS 622A.300 that, pursuant to NAC 630.470, will include a synopsis of the testimony taken at the hearing as well as a recommendation on the veracity of witnesses if there is conflicting evidence or if credibility of witnesses is a determining factor. Thereafter the Board will render its decision. NAC 630.470.

Should the parties deem a status conference necessary at any juncture of the proceeding, they shall coordinate at least three proposed dates and times and may jointly email the undersigned hearing officer with the proposed dates and times and request a status conference and state the basis for the request.

Both parties shall keep the undersigned hearing officer apprised of each issue that has been resolved by negotiation or stipulation or any other change in the status of this case.

DATED this 15th day of May 2024.

By: _____

Patricia Halstead, Esq.
Hearing Officer

CERTIFICATE OF SERVICE

I certify that on this day, I personally delivered or mailed, postage pre-paid, at Reno, Nevada, a true file-stamped copy of the foregoing ORDER CONTINUING SCHEDULING EVIDENTIARY HEARING (First Continuance) addressed as follows:

William P. Shogren
Deputy General Counsel
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, Nevada 89521

Sassan Kaveh, M.D.
c/o Melanie L. Thomas, Esq.
Lewis Brisbois Bisgaard & Smith, LLP
6385 S. Rainbow Blvd., Ste 600
Las Vegas, NV 89118

9171 9690 0935 0241 6277 35

DATED this 16th day of May 2024.

Signature

Mercedes Fuentes
Print

Legal Assistant
Title

EXHIBIT V

BEFORE THE BOARD OF MEDICAL EXAMINERS

OF THE STATE OF NEVADA

FILED

SEP 11 2024

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By:

In the Matter of Case No. 23-10414-1

Charges and Complaint

Against:

SASSAN KAVEH, M.D.,

Respondent.

_____/

TRANSCRIPT OF HEARING PROCEEDINGS

Held at the Nevada State Board of Medical Examiners

9600 Gateway Drive

Reno, Nevada

Thursday, August 29, 2024

Reported by: Brandi Ann Vianney Smith

Job Number: 6655967

A P P E A R A N C E S:

THE HEARING OFFICER:	PATRICIA HALSTEAD, ESQ.
FOR THE INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS:	WILLIAM SHOGREN, ESQ. Deputy General Counsel Nevada State Board of Medical Examiners 9600 Gateway Drive Reno, NV 89521
FOR RESPONDENT:	MELANIE THOMAS, ESQ. Lewis Brisbois Bisgaard & Smith, LLP 6385 S. Rainbow Boulevard, Suite 600 Las Vegas, NV 89118

ALSO PRESENT:
Mercedes Fuentes, Legal Assistant

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RENO, NEVADA -- AUGUST 29, 2024 -- 8:30 A.M.

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HEARING OFFICER HALSTEAD: We're going to go on the record. We're here In the Matter of Charges and Complaint Against Sassan Kaveh, M.D., case number 23-10414-1.

We're here for the complaint that was filed on May 8, 2023, that alleges one count of violation of statutes and regulations of the Nevada State Board of Pharmacy, a purported violation of NRS 630.306, subsection 1, subsection B, subsection 3.

Can you please state your appearances for the record, starting with you, Mr. Shogren.

MR. SHOGREN: My name is William Shogren, Deputy General Counsel on behalf of the Investigative Committee.

HEARING OFFICER HALSTEAD: Ms. Thomas?

MS. THOMAS: Melanie Thomas on behalf of Dr. Kaveh, who is also present.

HEARING OFFICER HALSTEAD: Thank you.

And my name's Patricia Halstead. I'm the hearing officer assigned to this matter.

I'll note that this matter came to me already partially adjudicated through motion work from a previous hearing officer. I have reviewed the entirety of the file, and am prepared to go forth.

I just want to address some expectations. I'm not anticipating that we are going to rehash matters that have already been ruled upon. It's my understanding that we will address the merits of the complaint.

With that, I'll go ahead and address the parties to see if the parties would like to have opening statements.

MR. SHOGREN: Yes, I would. Thank you.

OPENING STATEMENT

MR. SHOGREN: This is, once again, William Shogren, Deputy General Counsel on behalf of the Investigative Committee.

I would first like to thank everyone here. Hearing Officer Patricia Halstead, Madam Court Reporter, opposing counsel, and Dr. Kaveh for coming here to participate in today's hearing.

This hearing is to present evidence to determine if Dr. Sassan Kaveh violated the one count in the Complaint filed by the Investigative

Committee, or the IC, May 8th, 2023. This is single count is violation of NRS 630.306 (1)(b)(3).

According to the statute, engaging in any conduct which is a violation of a provision of Chapter 639 of NRS, or a regulation adopted by the State Board of Pharmacy that is applicable to a licensee who is a practitioner is grounds for initiating disciplinary action.

This matter concerns Dr. Kaveh, who has been an active licensee of the Board since July 18, 1997.

Throughout this hearing, the evidence will show that Ernesto Diaz, chief investigator for the Board, investigated this case and filed the exhibits as part of that investigation.

The evidence will further show that Dr. Kaveh first received a Notice of Intended Action and Accusation from the Nevada State Board of Pharmacy which contained factual allegations and accusations that Dr. Kaveh violated several provisions of NRS Chapter 639 and NAC Chapter 639.

The evidence will show that Dr. Kaveh then entered into a stipulation with the Nevada State Board of Pharmacy wherein the Board of Pharmacy found that Dr. Kaveh violated multiple provisions of

NRS Chapter 639 and NAC Chapter 639.

The evidence will show that Dr. Kaveh accepted the Board of Pharmacy's Stipulation and Order as a public reprimand regarding his duties and responsibilities as a prescribing practitioner. The evidence will show that the Board of Pharmacy imposed penalties upon Dr. Kaveh, including a fine and reimbursement of costs, and additionally that the stipulation was reported to the National Practitioner Data Bank.

Lastly and most importantly, the evidence will show that Dr. Kaveh does not dispute that he entered into this stipulation. He admits and has answered to the IC's complaints that he did this, and in the letter that was sent to the Medical Board. There's no argument concerning the fact that he was disciplined by the Board of Pharmacy.

In sum, the testimony and evidence that will be presented today will establish by a preponderance of the evidence that Dr. Kaveh engaged in conduct which violated at least one provision of Chapter -- of NRS Chapter 639 or regulations adopted by the Pharmacy Board as alleged in Count I.

On behalf of the Investigative Committee, we ask the Board to consider the record that will be

presented here and render the appropriate findings and discipline.

Once again, thank you all for being here today.

HEARING OFFICER HALSTEAD: Thank you, Mr. Shogren.

Ms. Thomas, would you like to give an opening statement on behalf of your client?

MS. THOMAS: Yes. And I -- before we got started, we were going to place on the record that we've invoked the exclusionary rule for the witnesses to be called today.

HEARING OFFICER HALSTEAD: Yes.

OPENING STATEMENT

MS. THOMAS: I would also like to thank everybody on behalf of my myself and Dr. Kaveh for appearing today, and given an opportunity to have this matter heard and considered.

The Nevada Board of Medical Examiners has not followed its own policies and procedures in prosecuting this case. This case was initiated in the absence of any specific authority afforded to the IC under the Nevada Revised Statutes. The Board clearly ignores the plain statutory language in bringing this investigation which they admit and

have admitted that in their opening statement, is solely based on the Pharmacy Board's stipulation, so claiming there is no overlapping jurisdiction.

The Board has initiated the equivalent of summary proceedings improperly without the authority to do so.

The IC, Board counsel, or both have improperly tainting the remaining Board members by informing them of this pending matter in what we perceive to be a retaliation for Dr. Kaveh for challenging the IC's authority to initiate formal disciplinary proceedings in the absence of a patient or community care complaint.

Dr. Kaveh properly and appropriately brought a petition for an advisory opinion without mentioning anything related to this case. The IC members, Mr. Shogren, or both informed the remaining Board members of this case and suggested he exercise his rights as pursuant to NRS 630.450 as an attempt to circumvent this disciplinary process. We deny those allegations.

Any licensee can seek clarification of any Nevada Revised Statute provision at any time.

The IC claims it was properly convened, despite the Complaint listing only two of three

requisite IC members, as required by Nevada Revised Statutes.

Board counsel attempted to cure this with a belated errata after being confronted with this deficit. Board counsel served a motion in limine to prevent Dr. Kaveh from confronting witnesses to the Board's misconduct on September 18, 2023, a matter that we are not here to rehash, but only to state for the record has impeded the ability to fully defend himself in this matter.

Subsequent -- or in addition, that motion in limine was served on the parties on September 18, 2023, but time stamped by the Board's time stamp for the following date, unless it was calendared incorrectly, a matter that the Board then used to prevent -- or an attempt to prevent us from defending against that motion.

The Board has initiated this investigation, and the final confrontation has tainted and disqualified the remaining Board members. It is our position that the rules apply to everyone or they can apply to no one. There is already significant distrust in the community and the medical and legal community regarding arbitrary practices of the Board.

Board counsel attempted to resolve this case prior this hearing by the imposition of a fine that was expressly unavailable under the Board's own policies and procedures.

We believe that the faith in the system must be restored, and that is why we are here today because we believe that this hearing will provide us this opportunity and that you will see that this was brought improperly and maintained improperly against Dr. Kaveh. There is no overlapping jurisdiction and thus no basis for additional imposition of discipline.

Thank you.

HEARING OFFICER HALSTEAD: Thank you, Ms. Thomas.

Before we get started, I note that I stated the concern at the beginning of the hearing about the confines of what would be considered today, and you addressed that in your opening by saying that you just wanted to place it on the record. I am an advocate of getting things on the record because, as you know, you're entitled to appellate review.

I'm not going to rehash all that. Everything that you have stated has been ruled upon

in the record prior to me.

What I would like to ask is if you would like to have your opening statement be considered an offer of proof as to those matters, and then we'll move on the merits of the actual allegation from there?

MS. THOMAS: Just stating those matters for the record to preserve those issues in the event that an appeal is required.

HEARING OFFICER HALSTEAD: And would you like --

MS. THOMAS: Not intending to proffer any proof on matters that have already been decided.

HEARING OFFICER HALSTEAD: Okay. So you do not want to make an offer of proof for the record, you just want to rely on the record as it's provided today?

MS. THOMAS: Correct.

HEARING OFFICER HALSTEAD: Okay. Thank you.

I'll note that the rule of exclusion has been invoked. There are no witnesses in the hearing room. There is simply another IC attorney who is observing, Mr. Cummings, and then Ms. Mercedes Fuentes is here as well, Mr. Shogren's assistant.

With that, we are ready to proceed to the merits of the allegations of the Complaint.

Mr. Shogren, would you like to call your first witness?

MR. SHOGREN: I would. I would like to call Mr. Ernesto Diaz.

HEARING OFFICER HALSTEAD: Note the presence of Mr. Diaz for the record.

Can you please raise your right hand and be sworn.

(The oath was administered.)

HEARING OFFICER HALSTEAD: Can you please state and spell your name for the record.

THE WITNESS: Ernesto Diaz, E-R-N-E-S-T-O D-I-A-Z.

HEARING OFFICER HALSTEAD: Thank you.

Mr. Shogren, your witness.

DIRECT EXAMINATION

BY MR. SHOGREN:

Q. Good morning, Mr. Diaz.

A. Good morning.

Q. First of all, where do you work?

A. I work for the Nevada State Board of Medical Examiners.

Q. What is your job title?

A. Chief of Investigations.
Q. How long have you had that position?
A. Approximately four and a half years.
Q. Do you have any other investigation experience?
A. I do. I was a border patrol agent for four years, where I investigated administrative immigration law as well as federal criminal law. And I was an alcohol, firearms, and explosive special agent, where I investigated federal firearm laws as well.
Q. As chief of investigations for the Board of Medical Examiners, what are your duties?
A. As a chief of investigations, I supervise approximately seven investigators, two of them which are deputy chief, two medical reviewers, and administrative staff. I review complaints that are brought to Board's attention to determine if there's jurisdiction to open an investigation into the Nevada Medical Practice Act, see if there's any violations there, as well as investigating cases myself.
Q. And, generally, how are investigations opened?
A. They're initially reviewed by myself or a

deputy chief. If there's jurisdiction, if the individual's a licensee of this Board and the allegations fall within the Nevada Medical Practice Act, we then open an investigation, assign it to an investigator and an Investigative Committee, there are three of those that work for the Board.

Once an investigation is opened, the investigator will read the complaint, contact the complainant if they need additional information. They will generate what's called an "allegation letter," send it to the respondent.

If the case involves patient care, they will also send an order to produce health care records. Once that information and any other information is received by the investigator, it is then put forward to a medical reviewer who reviews the information, and, of course, it's presented to an investigative committee.

Q. Okay. To be clear, when an investigation is opened, does the Board create a file for that matter?

A. Yes, we do create a case file with an assigned case number.

Q. And we're here today for a hearing to present evidence so that the Board can determine if

Dr. Kaveh violated the Medical Practice Act.

Are you the investigator assigned to Dr. Kaveh's case?

A. I am.

Q. As part of your investigations into this case, did you receive documents?

A. Yes. I received a Stipulation and Order from the Pharmacy Board, as well as a notification from Dr. Kaveh's attorney, Ms. Thomas, via email with an attached Stipulation and Order as well from the Pharmacy Board.

Q. Just generally as chief of investigations, do you investigate licensees who have been disciplined by the Pharmacy Board, the Nevada State Pharmacy Board?

A. Yes, I have conducted those investigations as well. We will we refer to them as "reciprocal investigations."

Q. To your knowledge, are licensees with the Board required to report Pharmacy Board sanctions or discipline to the Medical Board?

A. Yes, they are. As well as anything that's reportable to the National Practitioner Data Bank.

Q. Thank you.

I'm going to now ask you questions

directed towards the exhibits that will be used in this hearing. If you could open the binder in front of you.

HEARING OFFICER HALSTEAD: Well, let's discuss exhibits. Are there any objections to any of the proposed exhibits being submitted?

MS. THOMAS: Yes, Your Honor. We object to the Stipulation and Order of the Nevada State Pharmacy Board as it's not a certified copy as required.

HEARING OFFICER HALSTEAD: Okay. And which exhibit is that?

MS. THOMAS: Exhibit 5, IC's exhibit.

HEARING OFFICER HALSTEAD: Okay. And as to 1 through 4 and 6 through 8?

MS. THOMAS: Exhibits 7 through 8 are Nevada Revised Statutes, that is not an appropriate exhibit. It's law and a matter of public record and knowledge.

HEARING OFFICER HALSTEAD: And 1 through 4?

MS. THOMAS: No preliminary objection at this time, provided appropriate foundation is laid.

HEARING OFFICER HALSTEAD: Thank you.

Mr. Shogren, please proceed. I didn't

mean to derail you.

MR. SHOGREN: It's all right.

BY MR. SHOGREN:

Q. Mr. Diaz, we're going to review, starting with Exhibit 4.

MR. SHOGREN: Actually, just to be clear, the exhibits that were stipulated to for admission were?

HEARING OFFICER HALSTEAD: My impression was that none of them were stipulated to. They are all subject to laying a proper foundation and being admitted. The objection as to 7 and 8 were that they were statutes, codified law, and they speak for themselves.

Did I state that correctly, Ms. Thomas?

MS. THOMAS: Yes, Your Honor.

MR. SHOGREN: Okay. I want to make clear, Exhibits 1 and 2 were already in the file, and these were the documents filed.

HEARING OFFICER HALSTEAD: Right. Those are part of the record.

MR. SHOGREN: They are -- 1 through 3 are part of the record.

HEARING OFFICER HALSTEAD: Well, there's a distinction between -- it's not a very meaningful

distinction in my mind, but there's a distinction between being part of the record and being admitted for purposes of the hearing.

Why don't you go ahead and state what they are and move to admit them formally, just so they are actual exhibits for purposes of the hearing. While I agree with you, they are part of the record.

MR. SHOGREN: First, Exhibit 1 is the Board's formal Complaint, dated May 8, 2023. I would ask for admission of this exhibit into the record.

HEARING OFFICER HALSTEAD: That's a true and accurate copy?

MR. SHOGREN: Yes.

HEARING OFFICER HALSTEAD: Mr. Thomas, do you have any reason to purport that that's not a true and accurate copy of the filed Complaint in this matter?

MS. THOMAS: I do not.

HEARING OFFICER HALSTEAD: Okay. Exhibit 1 will be admitted.

(Exhibit 1 was admitted.)

MR. SHOGREN: Next, Exhibit 2 is the Acceptance of Service, dated May 16, 2023. This is a true and correct of the document, and I ask for

admission of Exhibit 2 into the record.

HEARING OFFICER HALSTEAD: Ms. Thomas, do you have any reason to purport it's not a true and accurate copy of the Acceptance of Service filed in the record this matter?

MS. THOMAS: I don't. But our objection is to the foundation of this witness.

HEARING OFFICER HALSTEAD: Okay. Based on foundation. This is the Complaint and the acceptance, so do you have any other objection to admission of those documents for purposes of the evidentiary hearing?

MS. THOMAS: No.

HEARING OFFICER HALSTEAD: Okay. Exhibit 2 will be admitted.

(Exhibit 2 was admitted.)

MR. SHOGREN: And Exhibit 3 is respondent's answer to the formal Complaint, filed June 22, 2023. This is a true and correct of that answer. I will ask for admission of Exhibit 3 into the record.

HEARING OFFICER HALSTEAD: Ms. Thomas, any objection.

MS. THOMAS: We do. We have the same foundational objections.

HEARING OFFICER HALSTEAD: Noted and overruled.

(Exhibit 3 was admitted.)

MR. SHOGREN: Those three exhibits were all already in the record, not in the record of this case, but in the file.

Moving on to Exhibit 4, I'm going to turn to Mr. Diaz here.

BY MR. SHOGREN:

Q. Mr. Diaz, if you could turn to Exhibit 4. Do you recognize this document?

A. Yes, I do.

Q. Okay. What is this document?

A. This is a letter we received from the law firm of Lewis and Brisbois from Ms. Thomas, notifying the Nevada State Board of Medical Examiners, regarding the Stipulation and Order that Dr. Kaveh agreed and entered into with the Pharmacy Board.

This was received -- it was sent to the general email box, which was then forwarded to me. I then reviewed the document, opened an investigation into this matter, and then emailed Ms. Thomas several days after asking if she would be representing Dr. Kaveh in this Board matter.

Q. Is this a true and correct copy of the letter Mr. Dr. Kaveh's attorney that is in the Board's file?

A. Yes.

MR. SHOGREN: I will move to admit Exhibit 4 into the record.

HEARING OFFICER HALSTEAD: Ms. Thomas?

MS. THOMAS: This is a hearsay document that was not prepared by Dr. Kaveh.

HEARING OFFICER HALSTEAD: It was prepared by you on his behalf of; correct?

MS. THOMAS: Correct.

HEARING OFFICER HALSTEAD: And is it a true and accurate copy of your letter to the Medical Board?

MS. THOMAS: I'm sorry. Are you asking me to testify today?

HEARING OFFICER HALSTEAD: No. I'm just saying are you contesting this is not a true and accurate copy?

MS. THOMAS: No.

HEARING OFFICER HALSTEAD: Okay. Then Exhibit 4 is admitted.

(Exhibit 4 was admitted.)

BY MR. SHOGREN:

Q. Mr. Diaz, if you could turn to Exhibit 5, the Board's Exhibit 5. Do you recognize this document?

A. Yes.

Q. What is it?

A. It's a Stipulation and Order between the Nevada State Board of Pharmacy and Dr. Kaveh.

Q. Is this a true and correct copy of the Stipulation and Order which is in the Board's file for this matter?

A. Yes.

Q. How did you receive this document?

A. I initially received this from the Pharmacy Board, their general counsel, Brent Kandt. That was back in October 15, 2021.

And I again received it from Ms. Thomas via email with a notification letter. That was November 15, 2021.

MR. SHOGREN: I move to admit Exhibit 5 into the record.

HEARING OFFICER HALSTEAD: Ms. Thomas, I believe your previous objection was it wasn't a certified copy; is that correct?

MS. THOMAS: That is correct. As required

by Nevada Revised Statutes.

HEARING OFFICER HALSTEAD: And what statute would that be?

MS. THOMAS: I don't have that handy with me. It's within NRS 630, chapter for presenting --

HEARING OFFICER HALSTEAD: The evidence chapter?

MS. THOMAS: Correct.

HEARING OFFICER HALSTEAD: Okay. Do you have reason to believe that this is not a true and accurate copy of the Stipulation and Order?

MS. THOMAS: I do not. We just ask that all the requirements of the Nevada Revised Statute be followed in this case with regard to evidence and prosecution.

HEARING OFFICER HALSTEAD: As you know, the evidentiary rules do not apply to these proceedings and they are discretionary.

Given that it's a true and accurate copy, file stamped, and has been authenticated, Exhibit 5 will be admitted.

(Exhibit 5 was admitted)

BY MR. SHOGREN:

Q. Okay. Mr. Diaz, now turning to what's been premarked as the Board's Exhibit 6, do you

recognize this document?
A. Yes, I do.
Q. What is it?
A. It's a First Amended Notice of Intended Action and Accusations.
Q. Is this a true and correct which is in the Board's file for this matter?
A. Yes.
MR. SHOGREN: I move to admit Exhibit 6 into the record.
HEARING OFFICER HALSTEAD: Ms. Thomas, would you like to state your objection for the record?
MS. THOMAS: Same objections. Foundation, hearsay.
HEARING OFFICER HALSTEAD: Exhibit 6 is admitted.
(Exhibit 6 was admitted.)
BY MR. SHOGREN:
Q. Now, Mr. Diaz, can you turn to what's been premarked as Exhibit 7. Do you recognize this document?
A. I do.
Q. What is it?
A. It's one of the Nevada Revised Statutes

that the Board is charged with investigating and enforcing.

Q. Is this a true and correct copy of the statute which is in the Board's file for this matter?

A. Yes.

MR. SHOGREN: I move to admit Exhibit 7 into the record.

HEARING OFFICER HALSTEAD: Ms. Thomas?

MS. THOMAS: If any provisions of the NRS Chapter 630 are to be admitted, then the entirety of the chapter should be admitted. Otherwise, it's a matter of law and public record.

HEARING OFFICER HALSTEAD: And do you want to move to Exhibit 8, and I'll address them both at same time?

MR. SHOGREN: Yes.

BY MR. SHOGREN:

Q. Mr. Diaz, can you turn to Exhibit 8. Do you recognize this document, Mr. Diaz?

A. Yes, I do.

Q. What is it?

A. It's a Nevada Revised Statute as well, it's 639, grounds that allow for suspension and revocation.

Q. Is this a true and correct copy of the statute which is in the Board's file for this matter?

A. Yes, it is.

MR. SHOGREN: I'll ask for admission of Exhibit 8 into the record.

HEARING OFFICER HALSTEAD: Ms. Thomas?

MS. THOMAS: Same objections. If the provisions on pharmacist and pharmacy under NRS Chapter 639 are to be admitted, then the entirety of the chapter should be admitted.

HEARING OFFICER HALSTEAD: Thank you.

So my position on the statutes is that they speak for themselves, they are the codified law. I know that these have been testified to as being the provisions that are within the file, and they are the true and accurate copies of the statutory provisions that are in the file.

But they are codified as law and the law is accessible. We don't need to admit the law as evidence in the form of a document. It'll be referred to and relied upon as required.

I don't have any way to know that these accurately state the statutes, although I am -- have no reason to doubt that they do, but I will refer to

them demonstratively, but I'm not going to admit them as exhibits.

MR. SHOGREN: Understood.

BY MR. SHOGREN:

Q. Mr. Diaz, if we could turn back to what's been marked as Exhibit 6. According to this document here, could you read into the record what this document is titled?

A. First Amended Notice of Intended Action and Accusation.

Q. And who are and parties to this action?

A. The Nevada State Board of Pharmacy is the petitioner, Sassan Kaveh, M.D. is the respondent.

Q. Now, on page 24, starting on -- yeah, starting on paragraph 2, could you read into the record the factual allegations?

A. "On or about January 4th, 2021, respondent prescribed Edarbyclor (azilsartan/chlorthalidone) 40-12.5 milligram tablets to patient CS. The prescription was submitted electronically to Alliance Pharmacy in Fort Worth, Texas, designated as prescription number 137852 in the pharmacy's computer system, and dispensed by mail to patient CS at his Las Vegas residence on or about February 1st, 2021."

Q. You if you can read into the record paragraph 3?

A. "Patient CS subsequently returned the unused medication from prescription number 137852 to respondent."

Q. Now if you could read into the record paragraph 4?

A. "Respondent dispensed" --

HEARING OFFICER HALSTEAD: I'm sorry.

THE WITNESS: Yes, ma'am.

HEARING OFFICER HALSTEAD: Do you have follow-up questions? This is already admitted and there's no point in reading it into the record.

MR. SHOGREN: No. I just wanted to make clear into the record what this exhibit is, but if -- I have no other questions for Mr. Diaz about this document other than what it states.

We can move on, then, because that is correct, it is in the record.

BY MR. SHOGREN:

Q. I just want to make clear, Mr. Diaz, can you now turn to Exhibit 5. What is this document titled, Mr. Diaz? Can you read that into the record?

A. It's a Nevada State Board of Pharmacy

Stipulation and Order.

Q. Turning now to NSBME Bates stamped page 22. To you knowledge of this document, who signed it?

A. Dr. Kaveh, general counsel for the Pharmacy Board Mr. Kandt. In this case, counsel was Ms. Thomas.

Q. Okay.

A. Oh, and Ms. Park -- I'm sorry -- the President of the Nevada State Board of Pharmacy.

MR. SHOGREN: No further questions.

HEARING OFFICER HALSTEAD: Ms. Thomas, cross-examination?

MS. THOMAS: Yes.

CROSS-EXAMINATION

BY MS. THOMAS:

Q. On what date did you open your investigation?

A. It would have been opened October 21, 2021. Yes, on that date.

Q. What are you relying to recall that date?

A. A review of the case management system, a review of the actual case file that I created when I was assigned this case.

Q. Earlier, Mr. Shogren represented that you

compiled all of the exhibits used by the Board in the investigation of this complaint; correct?

A. Yes.

Q. Are all of those documents found within the IC's formal hearing exhibits?

MR. SHOGREN: I object. If this is asking about the investigative file, it's confidential.

HEARING OFFICER HALSTEAD: She's just asking if they are included or not, so the objection's overruled. She's not asking what they are or about them. She's asking if they are --

THE WITNESS: In the case file?

HEARING OFFICER HALSTEAD: In the exhibits that have been proposed for today's hearing.

THE WITNESS: I don't understand the question. I'm sorry.

HEARING OFFICER HALSTEAD: I'm going to rephrase your question as I understand it. If I don't rephrase it correctly, please correct me.

MS. THOMAS: Thank you.

HEARING OFFICER HALSTEAD: Ms. Thomas, as I understand it, is asking if all the -- everything that's included in the investigative file is -- has been proposed as an exhibit for today's hearing?

THE WITNESS: No.

HEARING OFFICER HALSTEAD: Is that correct, Ms. Thomas?

MS. THOMAS: Yes.

HEARING OFFICER HALSTEAD: Okay. The answer was no.

BY MS. THOMAS:

Q. Where did the direction come from to open this investigation?

MR. SHOGREN: I object. That is privileged. It's a communication between Board staff and the Investigative Committee.

HEARING OFFICER HALSTEAD: Well, correct me if I'm wrong, but someone always initiates the investigation; correct? Is your objection as to -- it's confidential as to how it was commenced?

MR. SHOGREN: Correct.

HEARING OFFICER HALSTEAD: But didn't you already have Mr. Diaz testify that it was either -- it was -- came to the Board's knowledge through a report by the Pharmacy Board and through Ms. Thomas's submission of the stipulation?

MR. SHOGREN: That is correct.

HEARING OFFICER HALSTEAD: Mr. Diaz, go ahead and answer the question.

THE WITNESS: I, as the chief of

investigations, I testified earlier, review all complaints for information that is brought to the Board's attention to determine if, number one, the individual is licensed by the Board, number two, if the allegations or information violate the Nevada Medical Practice Act.

In this case, when it was brought to my attention by the Pharmacy Board, as in the past, I do initiate, open investigations, and I go ahead and start investigating those.

So I, myself, determined that this fell within our jurisdiction to open an investigation.

BY MS. THOMAS:

Q. There was no written complaint; correct?

A. We received the Stipulation and Order from the Pharmacy Board, that was the complaint.

Q. And it's your testimony today that the stipulation from the Pharmacy Board constitutes a written complaint for purposes of satisfying the NRS 630 chapter?

MR. SHOGREN: Objection.

HEARING OFFICER HALSTEAD: Ms. Thomas, I believe that's a legal conclusion. I also believe that that is something that is subject to the prior briefing and has already been ruled upon.

I don't believe it's within Mr. Diaz's authority to determine what is lawful and what is not, and that was already ruled on by a hearing officer.

MS. THOMAS: Mr. Diaz testified in regards to Exhibit 7 and Exhibit 8 that he recognizes these as one of the NRS provisions the Board is charged with investigating. And so I'm trying to obtain the scope of his knowledge of the Nevada Revised Statute since he indicated that he relies on these and utilizes these in these proceedings.

I think he's opened the door.

HEARING OFFICER HALSTEAD: Can you restate that question, please?

MS. THOMAS: Sure.

BY MS. THOMAS:

Q. Is it your testimony that the Stipulation and Order received from the Pharmacy Board constitutes a written complaint as defined under NRS 630?

HEARING OFFICER HALSTEAD: Yeah, I'm going to sustain the objection to the question based on what I've already stated on the record.

BY MS. THOMAS:

Q. Was the IC formed at the time you began

your investigation?

A. Yes. Well, yes. As I mentioned, the IC is -- committees are designated by the Board.

Q. Who were the members of this IC?

HEARING OFFICER HALSTEAD: Ms. Thomas, what road are we going on down here?

MS. THOMAS: We're going down the road that Board counsel as designated this witness to testify as to verification of documentary evidence obtained during the investigation and testify regarding the investigation of this matter.

And I'm asking --

MR. SHOGREN: I object to that question.

HEARING OFFICER HALSTEAD: Well, she needs to finish what she's saying.

Go ahead, Ms. Thomas.

MS. THOMAS: Thank you.

And I believe that that door has been opened because Board counsel has submitted or offered exhibits related to the Nevada Revised Statutes. And as the chief of investigation for the last four and a half years, Mr. Diaz indicated that he reviews complaints brought to the Board's attention, and that he makes the determination if there is jurisdiction and whether it falls within

the MPA.

So, I believe that we are entitled to explore his process in doing so and his understanding of the Nevada Revised Statutes.

HEARING OFFICER HALSTEAD: Explore his process in what way? You're asking him about Board members being convened versus him determining that there was a basis for the complaint.

MS. THOMAS: I could lay a foundation for that question, then, further foundation.

HEARING OFFICER HALSTEAD: Why don't you proffer where you're going with me?

Here's my concern: I'm making a concerted effort not to rehash matters that have already been briefed and ruled upon, and that's where I see this going.

If you can distinguish that for me, I would appreciate it. If not, then we're not going to go down this road.

MS. THOMAS: These are questions directly related to his investigation.

HEARING OFFICER HALSTEAD: How is whether or not the Board was convened relevant to whether he decided to investigate and support a complaint?

MS. THOMAS: Well, I guess the question

becomes if his investigation was complete at the time the IC was convened.

HEARING OFFICER HALSTEAD: And why is that relevant?

MS. THOMAS: Because he has been offered to testify as to the documents obtained and as to his investigation of this matter.

HEARING OFFICER HALSTEAD: But you haven't tied the Board being convened with his investigation, and that's what I'm asking you to proffer, that connection.

MS. THOMAS: I would need to ask the question, then: Was the Board convened at the time this investigation was completed?

HEARING OFFICER HALSTEAD: What are you trying to establish with the question?

MS. THOMAS: The process of the investigation used to initiate the formal disciplinary proceedings under the NRS 630.

HEARING OFFICER HALSTEAD: And how does that not fall under what's already been briefed and adjudicated?

MS. THOMAS: What's been briefed and adjudicated is witnesses that were requested to appear and that had not been permitted to appear.

In addition, this witnesses has been offered to testify as to his investigation in this matter, so we are entitled to know the details of that investigation to the extent that they are not protected.

HEARING OFFICER HALSTEAD: Someone has just entered the room. I believe it's Mr. (inaudible). And I only ask because the rule of exclusion has been invoked.

I -- if I may, Mr. Diaz, is your -- just to clarify so I can clarify this line of questioning, is your investigation linked to a convening of the Board?

THE WITNESS: I think there's something in communication -- it's the Investigative Committee that we present our cases to, our investigations that we work up when we follow up on a complaint or information that the Board receives. It's not the full Board.

So, yes, there are investigative committees that are already established by the Board that we then present our cases to for further decision-making or action.

HEARING OFFICER HALSTEAD: And is that before or after you decide to submit a matter for

further --

THE WITNESS: They are already convened before a complaint's received, while investigation is being worked. And each case is then presented to an Investigative Committee.

HEARING OFFICER HALSTEAD: And do you already determine whether or not a matter should go forth being investigated before it's presented to that particular board?

THE WITNESS: Once we determine that we have jurisdiction in violation -- a possible violation of the Nevada Medical Practice Act, the investigation is concluded, and it's then presented to the Investigative Committee, who then determines whether there's follow up needed, whether the case gets closed, whether it goes to any additional formal discipline. There's a couple of things that the Investigative Committee can decide to do.

But at that point, our investigation is complete once it's presented to them.

HEARING OFFICER HALSTEAD: Okay.

Ms. Thomas, you are certainly welcome to follow up on those questions I -- I'm still not clear where you're going with your particular question, but I will give you very, very limited

leeway.

BY MS. THOMAS:

Q. To be sure I understand your testimony, it is your decision-making and determination of whether a matter falls within the Medical Board's jurisdiction and within the Medical Practice Act; correct?

A. I'm the initial person that reviews the complaints that come in, information that the Board receives, yes, to determine if, number one, the individual is licensed by the Board, number two, do the allegations or the information alleged violate the Nevada Medical Practice Act.

Q. You testified earlier that you read that complaint, which you considered to be the Stipulation and Order of the Pharmacy Board, and then it is your process to contact the complainant.

Did you contact Brett Kandt in this case?

A. I testified earlier that if additional information is needed, the investigator, or myself in this case, would contact the complainant. In this case --

Q. Did that occur?

A. -- the complainant was another state regulatory board.

Q. Whose decision, yours or the IC, was it to initiate formal disciplinary proceedings and file a complaint?

MR. SHOGREN: Objection if it's confidential.

HEARING OFFICER HALSTEAD: So, generally speaking, is a single -- generally speaking, who decides to file the complaint? There's a process for that; correct?

MR. SHOGREN: Correct.

HEARING OFFICER HALSTEAD: Okay. And does that fall to different people or does that fall to one particular entity?

MR. SHOGREN: I guess -- you're asking me -- am I testifying?

HEARING OFFICER HALSTEAD: Yeah. I'm asking you about procedure.

MR. SHOGREN: It's the Investigative Committee.

HEARING OFFICER HALSTEAD: They sign off on a complaint; correct?

MR. SHOGREN: Correct.

HEARING OFFICER HALSTEAD: It's submitted to them, they review it, and they sign off on it. And that's a standard procedure?

MR. SHOGREN: That is correct.
HEARING OFFICER HALSTEAD: Is my understanding incorrect?
MR. SHOGREN: No. It's correct.
HEARING OFFICER HALSTEAD: Okay. Was there any deviation in that procedure in this case?
THE WITNESS: I was present there and there was no deviation.
HEARING OFFICER HALSTEAD: So what is the basis for objecting as to that procedure if that is normal course of procedure?
MR. SHOGREN: Well, I just thought this was getting into decisions made by the IC and the IC proceedings.
HEARING OFFICER HALSTEAD: Ms. Thomas, can you restate your question to make sure I understood it correctly and followed up properly?
MS. THOMAS: Yes.
BY MS. THOMAS:
Q. Is it the decision of the investigator or the IC investigator whether to initiate formal disciplinary proceedings and file a formal complaint?
HEARING OFFICER HALSTEAD: You can answer.
THE WITNESS: It's the Investigative

Committee that makes that decision.

HEARING OFFICER HALSTEAD: Thank you.

BY MS. THOMAS:

Q. And in this case, who was the Investigative Committee that made that decision?

A. The individuals present that made that determination were Investigative Committee members Dr. Bret Frey, and --

MR. SHOGREN: I object to the relevance of this question. I don't understand what is --

HEARING OFFICER HALSTEAD: Well, let me ask it this way. The complaint is -- the answer is that the complaint is instigated by the Investigative Committee and the complaint is signed by the chairman of the Investigative Committee, Bret Frey.

Now, is there any reason to maintain that the members of that committee, in addition to the chairman, are not subject to being disclosed?

MR. SHOGREN: That the composition of the IC is --

HEARING OFFICER HALSTEAD: Yes.

MR. SHOGREN: No. And that's public records. It states that on the Complaint.

HEARING OFFICER HALSTEAD: Okay. If I

understand Ms. Thomas's question correctly, that's what she's asking.

Is that correct, Ms. Thomas?

MS. THOMAS: Yes.

MR. SHOGREN: I'm also objecting to the relevance of this question.

HEARING OFFICER HALSTEAD: Well, I gave her limited leeway, so if we don't get there soon, we'll address that.

You said the members of to Investigative Committee, for which Mr. Frey is the chairman of, approved the filing of the Complaint of public record; correct?

MR. SHOGREN: Yes.

HEARING OFFICER HALSTEAD: Mr. Diaz, who are those nose members?

THE WITNESS: As I testified, Dr. Bret Frey, and Col. Eric Wade were the two members of the Investigative Committee.

HEARING OFFICER HALSTEAD: Ms. Thomas, does that answer your question?

MS. THOMAS: Yes. Thank you.

BY MS. THOMAS:

Q. Your investigation into this Stipulation and Order of the Pharmacy Board did not reveal any

underlying lawsuit or claim for malpractice; correct?

MR. SHOGREN: Objection. Relevance.

HEARING OFFICER HALSTEAD: Ms. Thomas?

MS. THOMAS: It's relevant to the investigative process and the NRS provisions for which Mr. Diaz, as the chief of investigations, indicated that he follows to determine whether there's jurisdiction and whether a matter falls within the Medical Practice Act. This is related to the investigation which he is disclosed to testify.

HEARING OFFICER HALSTEAD: To the extent it goes to the scope of the investigation and not as to relevance of whether any other actions were involved, which I would not consider the merits of in any way, I will go ahead and allow the question to be answered.

THE WITNESS: To my knowledge, when we received is this complaint, and not just from Pharmacy Board but also from Ms. Thomas providing this notification of the Pharmacy Board action, one of the other steps I take is I look to see if there is any civil court action on the same matter, to see if the individual reported it as they are required to.

In this particular case, I did not any see any civil court matter at that time.

HEARING OFFICER HALSTEAD: Thank you.

Ms. Thomas?

BY MS. THOMAS:

Q. Would you agree that there was no report or sentinel event related to this investigation?

HEARING OFFICER HALSTEAD: Ms. Thomas, I'm not sure what that means, a "sentinel event"?

MS. THOMAS: That's defined under the NRS 630 chapter that Mr. Diaz indicated he reviews for jurisdiction to determine whether something falls within the Medical Practice Act.

HEARING OFFICER HALSTEAD: Mr. Diaz, are you able to answer the question?

THE WITNESS: No, I'm not.

BY MS. THOMAS:

Q. You'd agree that your investigation revealed that there was no patient harmed as result of this incident?

MR. SHOGREN: Objection. Relevance.

HEARING OFFICER HALSTEAD: Well, I -- Ms. Thomas, what do you submit is the relevance of the question?

MS. THOMAS: It's just part his

investigation and his determination as the public policy of the Board is to look out for safety of the community and patients.

HEARING OFFICER HALSTEAD: My position on the basis of the question as said, I am to make recommendations to the Board that can include the recommendation as to remedy for the violation, if I find a violation exists.

And so based upon what has been stated on the record and what I just stated, I'll go ahead and allow the question.

THE WITNESS: This particular investigation was initiated based on discipline by the Pharmacy Board. That was enough for the violation in our jurisdiction to open an investigation.

HEARING OFFICER HALSTEAD: Ms. Thomas, can you repeat the question, please?

MS. THOMAS: He's answered my question.

HEARING OFFICER HALSTEAD: Well, I agree with you that he answered the question that it was based upon the Pharmacy Board and what happened there, but I believe you question was whether a patient was harmed.

MS. THOMAS: Correct.

HEARING OFFICER HALSTEAD: Did you determine whether or not a patient was harmed?

THE WITNESS: No.

BY MS. THOMAS:

Q. So it's fair to say that you have no evidence of patient harm related to this investigation; correct?

MR. SHOGREN: Objection.

HEARING OFFICER HALSTEAD: Overruled.

THE WITNESS: To my knowledge, no.

BY MS. THOMAS:

Q. And your investigation did not reveal any report of malpractice by a liability insurance company; correct?

MR. SHOGREN: I'm objecting again. This is not relevant.

MS. THOMAS: Then, Your Honor, my response is the same to that, that he is tasked with the investigation and determination of whether there's jurisdiction and whether something falls within the Medical Practice Act.

HEARING OFFICER HALSTEAD: All right. I take this line of questioning as a limitation of the harm that was at issue at based on the investigation.

Based upon that, I will allow the question to answered.

THE WITNESS: To my knowledge, no.

BY MS. THOMAS:

Q. And your investigation revealed that Dr. Kaveh reported the Board of Pharmacy action in a timely matter to the Medical Board; correct?

A. It was reported to us through you in November, I believe, 10, 2001.

Q. On behalf of Dr. Kaveh; correct?

A. Yes.

Q. Who was responsible for insuring that you know the provisions of the Nevada Revised Statutes that are applicable to your investigation?

MR. SHOGREN: Once again, I'm objecting. Relevance.

HEARING OFFICER HALSTEAD: Well, I think it's going to his training and his ability to properly investigate the case, so I will allow him to answer it.

THE WITNESS: Well, again, as I testified earlier, with my previous 25 years in federal law enforcement, knowing the statutes and violations, working with federal and state prosecutors, you also gain the experience in interacting with prosecutors

that when review the statutes, if you have any questions, you always go to an attorney to speak to. In this case, we have Board attorneys that I also rely on when there's questions regarding interpretations of the laws.

Q. Did you rely on Board counsel for your interpretation of the laws applicable to the investigation of Dr. Kaveh in this matter?

A. Not when this was initially received by the Board, because I had previously worked other investigations similar to this where they involved disciplinary action by the Pharmacy Board.

Q. Did those investigations relate to controlled substances?

A. They related to similar facts, stipulation and order were an individual licensee of both the Pharmacy Board and the Medical Board was disciplined.

Under NRS, we do have the authority to investigate and open an investigation on those matters.

Q. Matters related to controlled substance prescriptions, or any matters related to the Nevada Board of Pharmacy?

MR. SHOGREN: I'm objecting again to this

line of questioning. I don't not see how this is relevant at all to this complaint.

HEARING OFFICER HALSTEAD: Ms. Thomas?

MS. THOMAS: It is relevant because, again, he been designated to discuss his investigation into this matter. He has testified that the determination of a violation was made by him prior to turning this matter over to the IC. That in his role as the chief of investigators, he is tasked with determining jurisdiction and whether something falls within the Nevada Practice Act.

So his knowledge, training, and experience in that regard is essential to determining the scope of his investigation.

HEARING OFFICER HALSTEAD: I took the question as asking about his experience investigating matters related to the Pharmacy Board, alleged violations or violations that have been stipulated to.

With that, I'll allow Mr. Diaz to go ahead and answer the question. Would you like me to restate it as I understood it or would you like to re-ask the question?

MS. THOMAS: If you can restate it as you understood it, that would be helpful.

HEARING OFFICER HALSTEAD: And, again, Ms. Thomas, correct me if I'm wrong, I believe the question was whether other Pharmacy Board matters you had investigated were related to Pharmacy Board matters overall or particular controlled substances; is that correct?

MS. THOMAS: Yes.

THE WITNESS: Both. I have investigated those. I don't have that information in front of me, but I have investigated numerous similar types of investigations. Some involving controlled substances that resulted in disciplinary action by the Pharmacy Board, others that did not.

BY MS. THOMAS:

Q. And you would agree that matters involving controlled substances are different under NRS Chapter 630 than matters not involving controlled substances; correct?

MR. SHOGREN: I object. This complaint had nothing to do with controlled substances. I don't understand the relevance of this.

HEARING OFFICER HALSTEAD: Go ahead and answer the question.

THE WITNESS: Ma'am, I don't how to answer that question that you're asking me.

We investigate these based on the information we receive that involves a violation or disciplinary action from another regulatory board, in this case, the Pharmacy Board.

BY MS. THOMAS:

Q. So beyond the Stipulation and Order received from the Pharmacy Board, did your investigation include any other documents or witness interviews?

MR. SHOGREN: I object to that. That's confidential, it's part of the investigative file.

HEARING OFFICER HALSTEAD: Ms. Thomas, can you restate that without delving into matters that would be included in the investigative file potentially?

BY MS. THOMAS:

Q. Did you make a determination to refer this matter to the IC based on the Stipulation and Order alone?

A. All matters referred to the IC include a thorough investigative case file. That's best I can testify to that.

Q. How many statutes are within Nevada Revised Statutes Chapter 630?

MR. SHOGREN: Objection. Relevance.

HEARING OFFICER HALSTEAD: Sustained.

BY MS. THOMAS:

Q. When you investigated Dr. Kaveh, had you read the entire chapter, 630 of the NRS?

MR. SHOGREN: Objection. Relevance.

HEARING OFFICER HALSTEAD: I'm going to sustain the objection because I don't know that the entire chapter of 630 is relevant.

His testified to his investigation supported it that it was signed off by the IC. I don't think we need to quiz him about the particular statutory scheme. I don't find that to be relevant.

BY MS. THOMAS:

Q. What kind of training have you been provided prior to investigating Dr. Kaveh on NRS 630?

MR. SHOGREN: Once again, I object to that for relevance.

HEARING OFFICER HALSTEAD: I believe Mr. Diaz went through his training earlier. I will allow him to testify as if -- as to whether he's had any specific, independent training particularly on NRS Chapter 630.

With that limited scope, Mr. Diaz, can you answer the question?

THE WITNESS: I have not had any formal or academy training related to NRS 630.

I have had, in my four and a half years, not only reviewing the NRS statutes that falls under the Board's jurisdiction, but based on my experience reviewing United States code laws as well as other NRS laws, criminal laws particularly, I am very familiar with some of the statutes.

In this case, I have consulted with attorneys whenever there's an allegation or complaint that falls within our jurisdiction, to discuss and engage the attorneys further on proving elements of to cases that fall within our jurisdiction.

BY MS. THOMAS:

Q. And did you do that in this case?

A. Yes. Whenever I have a case, I always discuss it with the legal division to ensure that we have the elements that can possible prove violations of the law.

Q. Have you been tested on your knowledge of NRS 630?

MR. SHOGREN: Objection. Relevance.

HEARING OFFICER HALSTEAD: Sustained.

He's already addressed his experience with

regard. Again, I'm not going to have him quiz on the particular statutory scheme. I don't find that to be relevant.

BY MS. THOMAS:

Q. Do they teach NRS 630 in medical schools?

MR. SHOGREN: Objection. Relevance. Also it's a lack of personal knowledge.

HEARING OFFICER HALSTEAD: Sustained.

BY MS. THOMAS:

Q. How about residency programs? Do Nevada residency programs teach NRS 630 compliance?

MR. SHOGREN: Objection under the same grounds.

HEARING OFFICER HALSTEAD: Sustained.

BY MS. THOMAS:

Q. What educational offerings are available to licensees by the Medical Board on NRS 630?

MR. SHOGREN: I object to relevance and also lack of person knowledge.

HEARING OFFICER HALSTEAD: Do you have any personal knowledge about training of NRS 630 to licensees?

THE WITNESS: No.

BY MS. THOMAS:

Q. And you've never taught any classes on NRS

630; correct?

A. Correct.

Q. I believe you testified previously that you rely on Board counsel, like Mr. Shogren, to discuss legal provisions and their interpretation; correct?

HEARING OFFICER HALSTEAD: Just to clarify, he didn't name any particular legal counsel, and I want to be careful that we don't infringe upon any attorney-client matters.

BY MS. THOMAS:

Q. You rely on Board counsel to teach you the law; correct?

A. I rely on Board counsel to help interpret the law.

Q. Are you an attorney, Mr. Diaz?

A. No, I am not.

Q. Do you have any formal legal training?

MR. SHOGREN: Objection. Relevance.

HEARING OFFICER HALSTEAD: Well, he already went through his background as an ATF officer and a border patrol officer. So I'm not sure by what you mean by "legal training," but those are law enforcement positions.

Legal training can be a rather broad term

in this context.
BY MS. THOMAS:
Q. Have you ever taken any law school classes?
A. No.
Q. How long have you been an investigator with the Board of Medical Examiners?
MR. SHOGREN: Objection. Asked and answered.
HEARING OFFICER HALSTEAD: Just for sake of clarification, go ahead and answer.
THE WITNESS: Approximately four and a half years.
BY MS. THOMAS:
Q. So, have you held any other positions with the Board of Medical Examiners?
A. No.
Q. Is it fair to say that you started in the current job title -- I'm sorry.
You started in the job title that you currently hold, chief of investigation?
A. Yes.
Q. Did your investigation in this case include a review by an expert witness or medical reviewer?

MR. SHOGREN: Objection. That's confidential. Part of the investigative file.

HEARING OFFICER HALSTEAD: Sustained.

MS. THOMAS: And my response is that he's been disclosed to testify as to the investigation. I'm not asking what is in the file, I'm asking what his investigative process was.

HEARING OFFICER HALSTEAD: Well, if he answers that, it implicates what would be in the file. Whether or not he chose to consult with an expert, he submitted the charges and they were signed off on, that implicates matters that were subject to being in the file that have not been presented at the hearing.

BY MS. THOMAS:

Q. At what point does your involvement in an investigation end? Let me phrase it a different way.

When did you complete your investigation of this matter?

A. When it was presented to the Investigative Committee.

Q. When was it presented to the Investigative Committee?

A. I don't recall the exact date.

Q. Have you been involved in or present during any discussion with any Board members, including the IC, regarding Dr. Kaveh's case since you completed your investigation?

MR. SHOGREN: I would object to that as confidential.

MS. THOMAS: I'm not asking for the content of those discussions, just whether he has been involved after he completed his investigation.

HEARING OFFICER HALSTEAD: Mr. Shogren, what is the basis of your confidentiality?

MR. SHOGREN: IC proceedings are confidential. I think this also falls under communication between Board staff and the IC, which is also confidential.

HEARING OFFICER HALSTEAD: What's the point of your question, Ms. Thomas, what are you trying to establish?

MS. THOMAS: I'm trying to establish how his role as the chief of investigations, at what point does that end? If it is the decision of the IC on whether to proceed with formal discipline, at what point does his investigative involvement end?

HEARING OFFICER HALSTEAD: So why don't you ask the question in that form, please.

Or if you want, I can say based on her representation of what she just asked about when your role ends, if the IC has further questions or you discuss with them, is that part of your investigative process?

THE WITNESS: For this particular case or in general?

BY MS. THOMAS:

Q. This case?

A. My role as not only the investigator, the chief of investigations, concluded when it was presented to the IC. I don't have the date or remember the date of when we met.

Now, again, the IC may ask for the follow-up, they may ask additional information, but in this case, they agreed to file a formal complaint. At that point, there was no interaction between myself and the IC members.

Q. Have you been involved or present during the discussions with the Board members or the IC regarding Dr. Kaveh's case since you ended your investigation?

MR. SHOGREN: Objection. Again, same grounds that this is confidential.

HEARING OFFICER HALSTEAD: I see this as

--

MS. THOMAS: Well, my response --

HEARING OFFICER HALSTEAD: Okay.

MS. THOMAS: Let me -- may I respond?

HEARING OFFICER HALSTEAD: Yes, you may, but let me tell you my concern with this line of questioning, and you then you can respond artfully in light of my concerns.

My concern is that you're getting into matters that have already been briefed and adjudicated. He's testified that the matter was submitted for consideration to the IC. The matter before me today is the merits of the Complaint.

So to the extent that his investigation can be challenged and support of undermining the Complaint in some way, I don't see how this question relates to that.

Given my concern and where you're going with your question, I want you to have that information so you can respond and also address my concern.

MS. THOMAS: Sure. First addressing Mr. Shogren's objection to confidentiality, if the investigation is complete and the IC is complete, it is no longer part of that process and therefore not

protected by privilege. Any discussion that he had outside that process would be relevant for follow-up questioning.

HEARING OFFICER HALSTEAD: Okay. I'm going to sustain the objection.

I'm here today to consider the merits of the Complaint as stated. So the merits are: Was this a violation or was this not a violation?

That is for me to decide. I obviously am not privy to any conversations with the IC, and so with that parameter and consideration, go ahead, move on.

BY MS. THOMAS:

Q. Under -- recognizing that you don't know when this IC met to consider Dr. Kaveh's case, can you state whether you were asked to provide any additional investigative services after handing this matter over to the IC?

MR. SHOGREN: I object on the same grounds I objected to earlier, this line of questioning.

HEARING OFFICER HALSTEAD: Well, I believe it was asked answered.

But to the extent you need to clarify that, please do, and let's move on.

THE WITNESS: As I've testified before,

when a case is presented to the IC, they may ask for additional information, at which point, the investigation is continuing.

In this particular case, once I completed the investigation, presented it to the Investigative Committee, they gave authority to file a formal complaint, there was nothing further needed on my end at that point for the investigation.

BY MS. THOMAS:

Q. Do you review a formal complaint before it's served on a licensee?

MR. SHOGREN: Objection, again, to relevancy.

HEARING OFFICER HALSTEAD: I'm not sure what the relevancy is, but it's a very easy question.

Do you review a complaint before it's submitted or no?

THE WITNESS: I have in some cases and others I haven't.

BY MS. THOMAS:

Q. Did you in this case?

A. In this case, I did not.

MS. THOMAS: Can we take comfort break for five minutes?

HEARING OFFICER HALSTEAD: Mr. Shogren, do you have any objection to taking a break?

The only reason I ask is because we're in the middle, so I want to know -- here's why I ask: I understand you want a comfort break, I also understand you might want to confer with your client to see if there's any further questions you need to ask on cross.

MS. THOMAS: I have several more questions to ask. My client's asked for a comfort break, that's all.

HEARING OFFICER HALSTEAD: Yes, we will take a break. You said you need five minutes?

MS. THOMAS: Yes.

HEARING OFFICER HALSTEAD: Okay. It is 9:47. Why don't we just come back at ten o'clock.

(Recess from 9:47 a.m. to 10:00 a.m.)

HEARING OFFICER HALSTEAD: We took a break at 9:47 to reconvene at ten o'clock. It is now ten o'clock, and we were in the midst of Ms. Thomas's cross-examination on behalf of her client, Dr. Kaveh.

Mr. Diaz, I remind you that you remain under oath.

BY MS. THOMAS:

Q. Mr. Diaz, earlier you testified that you received the Stipulation and Order from the Pharmacy Board and that you considered that to be the written complaint to initiate the investigation in this case.

Do you recall that testimony?

A. Yes.

Q. Was that accompanied by the written complaint form as set forth on the Nevada State Board of Medical Examiner's website?

MR. SHOGREN: Objection. Relevance.

HEARING OFFICER HALSTEAD: Sustained. And I think it goes into matters that have already been adjudicated.

But, Ms. Thomas, do you want to make your record with regard to the question?

MS. THOMAS: Sure. I'm trying to determine the extent of the written complaint that was -- the perceived written complaint that was received by the Board, whether it was just the documentation contained within the file, the Stipulation and Order, or whether the required Board form was submitted with it.

HEARING OFFICER HALSTEAD: Sustained. I'm

not going to give you a lot of leeway for this line of questioning.

BY MS. THOMAS:

Q. What were the names of the patients involved in this case?

MR. SHOGREN: Objection. Relevance.

HEARING OFFICER HALSTEAD: I believe those are to remain confidential. Those usually aren't placed on the record.

Ms. Thomas, are you aware of the names of the patients in this case?

MS. THOMAS: I am. But I'm not the investigator. That's why I'm asking that question.

HEARING OFFICER HALSTEAD: Well, the names of the patients are to remain confidential for purposes of the record. Their names don't need to be stated on the record.

You can ask if he's aware of the names of the patients, if you so choose.

BY MS. THOMAS:

Q. Did you know the patient's full names?

A. No.

Q. Do you know whether this involves males or females?

MR. SHOGREN: Objection. Relevance.

HEARING OFFICER HALSTEAD: Ms. Thomas, do you want to address the relevance?

MS. THOMAS: Other than that this witness was designated to testify as to his investigation and the documents he compiled.

HEARING OFFICER HALSTEAD: And how is the gender -- is the gender of the patient relevant for some reason?

MS. THOMAS: Just trying to obtain the knowledge that Mr. Diaz has of the underlying facts.

HEARING OFFICER HALSTEAD: Mr. Diaz, go ahead an answer the question, but this is another avenue we will be limited on.

THE WITNESS: The underlying facts that led to this investigation was the Stipulation and Order that I received from the Pharmacy Board and you which led us to investigate this case.

HEARING OFFICER HALSTEAD: Okay. The question was: Do you know whether the patient was male or female.

THE WITNESS: Oh. I'm sorry. No.

BY MS. THOMAS:

Q. Do you know what the subject medication was used for?

MR. SHOGREN: Objection. Relevance.

HEARING OFFICER HALSTEAD: Again, I -- I understand the point. I don't know that the line of questioning is helpful, but go ahead and answer.

THE WITNESS: Other than when I read in the -- what I read in the Stipulation and Order that refers to the actual medication, that's my knowledge of what medication was used for.

BY MS. THOMAS:

Q. Would you agree with me that that information is not contained within Exhibit 6, the First Amended Notice of Intended Action and Accusation?

HEARING OFFICER HALSTEAD: Can I clarify your question? What is not -- the use of the medication is not addressed in Exhibit 6, is that what you're saying, what you're questioning about?

MS. THOMAS: Yes. The condition for which the medication is prescribed to treat.

HEARING OFFICER HALSTEAD: Okay. Thank you.

THE WITNESS: I did look it up to pronounce it prior to the hearing, and I believe it's either for heart -- again, I'm not a doctor, but it has to do with --

HEARING OFFICER HALSTEAD: The question

was: When you did the investigation, where you aware of what the medication was used for?

THE WITNESS: No.

BY MS. THOMAS:

Q. You're aware that the medication is not a controlled substance; correct?

MR. SHOGREN: Objection. Relevance.

HEARING OFFICER HALSTEAD: Ms. Thomas?

MS. THOMAS: It's relevant to his investigation, and NRS 630 --

MR. SHOGREN: How is that relevant to his --

MS. THOMAS: -- to interpret and determine whether this falls within the jurisdiction.

HEARING OFFICER HALSTEAD: Whether or not it's a controlled substance doesn't have to do with the Complaint allegation. That's my position, unless you can clarify that for me in some manner to establish that's not correct.

MS. THOMAS: It's a matter that's important for determining the scope of this investigation pursuant to NRS 630.323.

HEARING OFFICER HALSTEAD: I'll let you answer the question, but I don't want to go further down this road. I don't find it to be helpful to

the merits of the question that's posed by the charge in the Complaint.

THE WITNESS: The Investigative Committee is the one that filed the formal Complaint.

HEARING OFFICER HALSTEAD: But the question is were you -- do you -- I don't want to misstate your question, Ms. Thomas.

Were you aware that the medication that was alleged -- not even alleged -- that was written in the First Amended Notice of Intended Action and Accusation, which is Exhibit 6, were you or were you not aware of whether or not that particular medication was a controlled substance or not?

Did I state that correctly, Ms. Thomas?

MS. THOMAS: Close enough.

THE WITNESS: No, I don't think so.

HEARING OFFICER HALSTEAD: Did you know one way or the other?

THE WITNESS: No, I didn't.

HEARING OFFICER HALSTEAD: Thank you.

BY MS. THOMAS:

Q. And based on NSBME 24, the first page of the First Amended Notice of Intended Action and Accusation, you were aware that as of January 4, 2001, when this medication was electronically

submitted to the pharmacy, that it took close to 30 days for it to be shipped to the patient; correct?

MR. SHOGREN: Once again, objecting to relevance.

HEARING OFFICER HALSTEAD: Ms. Thomas?

MS. THOMAS: This is his knowledge and his process of investigation.

MR. SHOGREN: I don't see how this is relevant at all to the single count in this Complaint that we're here today to determine that Dr. Kaveh violated it.

HEARING OFFICER HALSTEAD: Correct me if I'm wrong, I see -- neither one of you have posed this to me, I see this as a mitigating factor for why Mr. Kaveh did what he did.

But having said that, that goes to the Pharmacy Board matter and not this one, and that is not relevant to allegation in the Medical Board Complaint. So --

MS. THOMAS: Based on this -- I'm sorry. Go ahead.

HEARING OFFICER HALSTEAD: Go ahead.

MS. THOMAS: Based on this witness' testimony, he stated that these are the documents

that he relied on in his investigation, so I'm just asking whether he was aware of or took into consideration that it took close to 30 days for this medication to be shipped once it was ordered from the pharmacy.

HEARING OFFICER HALSTEAD: I don't find it to be relevant, so I will sustain the objection.

BY MS. THOMAS:

Q. Is it your testimony that the Nevada State Board of Pharmacy was the complainant in this case?

HEARING OFFICER HALSTEAD: I think that goes to a legal conclusion that was already addressed in the advisory opinion. This -- I don't want to keep going --

MS. THOMAS: The advisory opinion is outside of this case. That was a separate proceeding.

HEARING OFFICER HALSTEAD: It's in the record and it's been addressed and it's part of the record and it establishes the Board's position.

MS. THOMAS: The advisory option is not part of the record. It was submitted outside of this case and after the pleadings that were presented before Ms. Ghusin.

HEARING OFFICER HALSTEAD: Well, it's

still a legal conclusion that he's not required to answer.

MS. THOMAS: Mr. Diaz testified -- and just to preserve for the record, Mr. Diaz testified that it's his determination whether there's jurisdiction if something falls within the Medical Practice Act.

HEARING OFFICER HALSTEAD: Right. And he also testified how this matter commenced, and that it was his position that it proceed as charged based on his recommendation the IC.

Did I state that correctly?

THE WITNESS: That's correct.

HEARING OFFICER HALSTEAD: I don't think his opinion about a legal conclusion is proper about you -- you have taken issue and are apparently going to ask me to adjudicate at some point, if you're not relying on other adjudications, whether or not the Complaint was properly established through the procedures of the Board.

That is legal conclusion.

BY MS. THOMAS:

Q. You testified that it is your determination whether there's jurisdiction and if the matter falls within the Medical Practice Act.

In addition to reviewing the Nevada Revised Statutes, do you review case law from the Nevada Supreme Court interpreting those statutes?

MR. SHOGREN: Objection. Relevance.

HEARING OFFICER HALSTEAD: Go ahead and answer.

THE WITNESS: No.

BY MS. THOMAS:

Q. Are you aware of what provision of the NRS defines sample drugs?

MR. SHOGREN: Objection. Relevance.

HEARING OFFICER HALSTEAD: Sustained.

BY MS. THOMAS:

Q. Are you aware of what NRS provision defines dispensation?

MR. SHOGREN: Objection. Relevance.

HEARING OFFICER HALSTEAD: Sustained.

BY MS. THOMAS:

Q. What does dispensing mean?

MR. SHOGREN: Objection. Relevance.

HEARING OFFICER HALSTEAD: Sustained.

BY MS. THOMAS:

Q. Did you form an opinion during your investigation whether Dr. Kaveh acted in bad faith?

MR. SHOGREN: Objection. Relevance.

HEARING OFFICER HALSTEAD: What's the relevance, Ms. Thomas?

MS. THOMAS: The relevance is to the course of action and recommendation in referring this to the IC when there's no prior history of discipline.

HEARING OFFICER HALSTEAD: Sustained.

BY MS. THOMAS:

Q. Are you aware that Dr. Kaveh had no prior history of discipline with the Medical Board prior to this investigation?

MR. SHOGREN: Objection. Relevance.

HEARING OFFICER HALSTEAD: Sustained.

BY MS. THOMAS:

Q. Whether a licensee has a prior history of discipline, is that a matter for your consideration in your investigation?

MR. SHOGREN: Objection. Relevance.

HEARING OFFICER HALSTEAD: The -- I'm just going to clarify for the record. The basis purported for this line questioning, I don't agree with. To the extent that I am to consider the same for a recommendation to the Board, should I find there's a violation, I do find it to be relevant in that regard, but that's not the basis that the

question's being asked.

I will consider it for that purpose, and I don't want to go further down this line of questioning.

With that, go ahead and answer the question.

THE WITNESS: May you please ask the question again?

BY MS. THOMAS:

Q. Yes. Does the absence of prior discipline by the Medical Board in any way shape or influence your investigation?

A. No.

Q. Whether a licensee acted in bad faith, does that shape or influence your investigation?

MR. SHOGREN: Objection. Relevance. I think this question was already asked.

HEARING OFFICER HALSTEAD: It wasn't asked in the same way, but based on what's already provided on the record, go ahead and answer the question.

THE WITNESS: I don't make the determination if there's bad faith. I just gather the information and the evidence and present it to the Investigative Committee.

BY MS. THOMAS:

Q. Does the absence of patient harm matter to your investigation?

MR. SHOGREN: Objection. Relevance to this case.

HEARING OFFICER HALSTEAD: Go ahead and answer.

THE WITNESS: I don't want to make it sound mean if I say patient care doesn't matter, but I investigate the facts, and I present them to the Investigative Committee. I don't know how to -- when you're asking about patient care.

BY MS. THOMAS:

Q. Is it your decision or that of the IC whether and what circumstances -- strike that.

Is it your determination whether non-punitive admonishment versus a formal complaint will be filed?

A. No, it's not my decision.

Q. Have you ever received a certified copy of the Stipulation and Order?

MR. SHOGREN: Objection. Relevance.

HEARING OFFICER HALSTEAD: Go ahead and answer.

THE WITNESS: No.

BY MS. THOMAS:

Q. What specific provisions of NRS 630 put licensees on notice that the Board is authorized to open an investigation and in the absence of a patient care complaint?

MR. SHOGREN: Objection --

HEARING OFFICER HALSTEAD: Yes. I've already put an end to the line of questioning quizzing him about statutory provisions.

MS. THOMAS: That's all my questions. Thank you.

HEARING OFFICER HALSTEAD: Thank you, Ms. Thomas.

Mr. Shogren?

MR. SHOGREN: Yes. I have a couple redirect questions, if I may.

REDIRECT EXAMINATION

BY MR. SHOGREN:

Q. Mr. Diaz, how routine are these sort of cases, such as Dr. Kaveh's that we're here for today?

MS. THOMAS: Objection. Relevance.

HEARING OFFICER HALSTEAD: Mr. Shogren?

MR. SHOGREN: I think it's relevant to show that the investigative process here, how it

gets -- just the nature of this investigation.

HEARING OFFICER HALSTEAD: I don't want to speak for Ms. Thomas. Here's my concern with the question: I think every case is individual, so calling this matter, comparing it to something routine, I don't think it's the most helpful of questions.

He testified that he's done Pharmacy Board matters prior. That line of questioning was elevated up, so if you want to follow up along those lines, then I would encourage that. Otherwise, I don't know that that's a helpful question.

BY MR. SHOGREN:

Q. Mr. Diaz, to your knowledge, how many cases that originate from the Pharmacy Board do you receive in a year?

A. Anywhere from 10 to 20. It varies.

Q. Is this case with Dr. Kaveh similar to others that you've received?

A. Yes.

MS. THOMAS: Objection. If Mr. Diaz goes down this line of questioning and answers these questions, it will be our position that privilege is waived, and that we will be able to explore the investigative process.

HEARING OFFICER HALSTEAD: Let's just address this. My understanding was there was an allegation of selective enforcement that was adjudicated prior to me serving as the Hearing Officer.

The questions posed by Ms. Thomas had to do with his experience in investigating similar matters as it pertained to this one.

I believe, Mr. Shogren, that is what you are intending to follow up on, however, Ms. Thomas's point is that we're going down a road, something that has been adjudicated, that she will reopen.

If you can limit your questions to his experience with these as it pertains to this matter, as I believe was the intended questioning, that is one thing, but if I don't -- I will not allow either side to go back down the road of selective enforcement.

MR. SHOGREN: Understood.

BY MR. SHOGREN:

Q. I'm going to switch topics here. Mr. Diaz, can you turn to Exhibit 4. And just to rehash, are you familiar with this exhibit?

A. Yes.

Q. And what is this exhibit?

A. It's the letter received from Ms. Thomas informing the Board of the disciplinary action or Stipulation and Order with Dr. Kaveh and the Nevada State Board of Pharmacy.

Q. Did you review this letter?

A. Yes.

Q. According to this letter, paragraph 2, what does this letter say the medication at issue was?

MS. THOMAS: Objection. Hearsay. Offered for the truth of the matter asserted.

HEARING OFFICER HALSTEAD: Well, it's already admitted, but I can read it. We don't need to have things read into the record.

If you have a follow-up question, that's fine, but I can read the exhibit.

MR. SHOGREN: No follow-up question there.

BY MR. SHOGREN:

Q. Mr. Diaz, how many members of the Investigative Committee are there?

A. The committee is composed of three members, two of them are medical doctors, and one of them is a public member.

Q. The Investigative Committee that oversaw this case, what was it comprised of, who was it

comprised of?

MS. THOMAS: Objection. Asked and answered.

HEARING OFFICER HALSTEAD: It was asked and answered. Do you have a clarification?

MR. SHOGREN: I don't think it was asked and answered.

HEARING OFFICER HALSTEAD: Well, I recall it has been answered, and the answer was the chairman and Col. Eric Wade.

MR. SHOGREN: I don't believe that question was about the composition of the IC.

HEARING OFFICER HALSTEAD: Well, if you want to clarify what the composition was, go ahead.

MS. THOMAS: I would just like to state that if he opens the door to these matters that he has previously asserted privilege for, that we would take the position that we're entitled to canvass those issues and that privilege.

HEARING OFFICER HALSTEAD: This was a question that you asked, that he is clarifying, and I don't know that we're going further than that or why it's being asked at this point.

MR. SHOGREN: I want to clarify -- and this is not privilege, this is public information,

the composition of the IC.

HEARING OFFICER HALSTEAD: Mr. Diaz, please answer the question.

THE WITNESS: The composition is composed of three board members, two medical doctors, and one public member. That's for the Investigative Committees.

HEARING OFFICER HALSTEAD: And who was the Investigative Committee who endorsed the Complaint for this matter?

THE WITNESS: The chairman, Dr. Bret Frey, and Col. Eric Wade were present. They authorized the filing of the formal Complaint.

HEARING OFFICER HALSTEAD: Okay. That was asked and answered.

MR. SHOGREN: I was asking what --

BY MR. SHOGREN:

Q. The IC has three members; correct?

A. Yes.

MS. THOMAS: Asked and answered.

BY MR. SHOGREN:

Q. Did the IC at the time have three members?

A. Not that --

HEARING OFFICER HALSTEAD: What is the point of this questioning?

MR. SHOGREN: I'm establishing that -- because I think their line of questioning had to do with the composition of the IC. I believe the IC consists of three members.

MS. THOMAS: I don't think it's appropriate for Mr. Shogren to offer those facts into this.

HEARING OFFICER HALSTEAD: Well, that was your question, and he's clarifying your question.

Let me just cut to the chase, this is where we're all getting, if there were three, why were there only two that you mentioned?

THE WITNESS: The other member couldn't attend.

HEARING OFFICER HALSTEAD: Thank you.

Any follow-up on that?

BY MR. SHOGREN:

Q. To your knowledge, who was the other member?

A. It was Dr. Chowdhury Ahsan.

MR. SHOGREN: No further questions.

HEARING OFFICER HALSTEAD: Ms. Thomas, anything further from you?

MS. THOMAS: Our renewed request for dismissal for failure to comply with the

requirements of the IC.

HEARING OFFICER HALSTEAD: That's already been ruled upon, and I'm denying it on that basis. There's been no new information come to light that will support that.

Do you have any further witnesses, Mr. Shogren?

MR. SHOGREN: I do. I'd like to call Dr. Kaveh.

HEARING OFFICER HALSTEAD: Okay. Do you dismiss Mr. Diaz?

MR. SHOGREN: Yes.

(The oath was administered.)

HEARING OFFICER HALSTEAD: Can you please -- we already have it, of course, but can you please state your name and spell it for the record.

THE WITNESS: Sassan Kaveh, S-A-S-S-A-N K-A-V-E-H.

HEARING OFFICER HALSTEAD: Thank you.

And we've had another member come into the hearing room. I'm just going to ask who it is because of the exclusion rule that's been invoked.

MR. HINMAN: Alex Hinman. I'm an attorney for the Nevada Board.

BY MR. SHOGREN:

Q. Dr. Kaveh, could you state your first and last names into the record?

A. Just like I did, Sassan, S-A-S-S-A-N, last name Kaveh, K-A-V-E-H.

Q. If you could turn to what's been premarked as the Board's Exhibit 5. Dr. Kaveh, do you recognize this document?

A. I do.

Q. Can you say that again?

A. Yes, I do.

Q. And what is this document?

MS. THOMAS: Objection. Documents speaks for itself. Calls for a legal conclusion.

HEARING OFFICER HALSTEAD: It's a foundational question, go ahead, Dr. Kaveh.

THE WITNESS: It's a (inaudible) by the Pharmacy Board.

THE REPORTER: I can't understand him.

HEARING OFFICER HALSTEAD: The court reporter is having trouble hearing you. I believe you said -- I don't want to misquote you -- it's the stipulation from the Pharmacy Board.

THE WITNESS: Right. Yes.

HEARING OFFICER HALSTEAD: Maybe if you could just speak a little bit slower, that would be helpful.

THE WITNESS: Okay.

BY MR. SHOGREN:

Q. Dr. Kaveh, if you could please turn to page 22. Dr. Kaveh, did you sign this document?

A. I did.

Q. Did you review this document before signing it?

A. I did.

Q. Did you enter into this document freely and voluntarily?

A. I did.

Q. Were you coerced by anyone to sign this stipulation?

A. I felt pressure to do this, yes. And I was advised to do this by --

HEARING OFFICER HALSTEAD: Wait. I don't want to you talk about anything you were advised by counsel. You have attorney-client privilege, and I don't want you to open that door.

Please be careful about addressing attorney-client communications.

THE WITNESS: Okay.

BY MR. SHOGREN:

Q. To your knowledge, did you complete the requirements of the stipulation?

MS. THOMAS: Objection. Relevance.

HEARING OFFICER HALSTEAD: What is the relevance, Mr. Shogren?

MR. SHOGREN: Well, the Board of Pharmacy imposed multiple penalties here because of these alleged violations.

HEARING OFFICER HALSTEAD: What does -- how does that relate to the count that's being alleged in the Complaint?

MR. SHOGREN: This is the discipline imposed by the Board of Pharmacy, and that's part of the Complaint.

HEARING OFFICER HALSTEAD: Where in the Complaint is that part of it?

MR. SHOGREN: It said there were penalties imposed.

HEARING OFFICER HALSTEAD: Well, correct me if I'm wrong, isn't the point of the complaint that the Pharmacy Board took action for a violation of a pharmacy provision? So is it relevant whether or not he complied, wouldn't that be within the Pharmacy Board's purview?

MR. SHOGREN: That's correct, I suppose.

HEARING OFFICER HALSTEAD: Well, I don't want you to suppose. If you know the basis for admitting this, then let me know.

MR. SHOGREN: Well -- okay. I withdraw that question.

BY MR. SHOGREN:

Q. Dr. Kaveh, to your knowledge, did this Stipulation and Order get reported to the National Practitioner Data Bank?

MS. THOMAS: Objection. Relevance.

HEARING OFFICER HALSTEAD: Mr. Shogren?

MR. SHOGREN: Well, it is one of the provisions of this stipulation that was mentioned, and it goes to show that this was reported to the data bank and showed that there was a violation of NRS 639.

HEARING OFFICER HALSTEAD: Dr. Kaveh, go ahead and answer.

THE WITNESS: Yes.

MR. SHOGREN: No further questions.

MS. THOMAS: May I go ahead?

HEARING OFFICER HALSTEAD: You may.

I just want to caution that that was very limited direct, and so we have not opened up to your

witness being called. I would limit you to the direct because there's no stipulation that you do your witness direct within the cross-examination. I expect that you may call Dr. Kaveh again.

So at this point, I'm just addressing that procedural limitation.

MS. THOMAS: May I ask Mr. Shogren whether he would stipulate to allow me to do so?

MR. SHOGREN: I would not, just to keep it clean.

MS. THOMAS: Okay. Then I have no cross. I'll take my direct.

HEARING OFFICER HALSTEAD: Any more witnesses, Mr. Shogren?

MR. SHOGREN: No.

HEARING OFFICER HALSTEAD: Are you closing your case?

MR. SHOGREN: Correct, I'm closing the case.

HEARING OFFICER HALSTEAD: Okay. The IC has closed its case, and he has no further witnesses.

Would you like to present at this time or take a break?

MS. THOMAS: I would like present. Well,

I'm sorry, I'll ask Dr. Kaveh if he would like a break.

THE WITNESS: I'm fine.

MS. THOMAS: We're prepared to proceed.

HEARING OFFICER HALSTEAD: Okay. Go ahead and call your first witness.

MS. THOMAS: Dr. Kaveh.

DIRECT EXAMINATION

BY MS. THOMAS:

Q. Dr. Kaveh, what's your educational background?

A. I have a medical degree and residency training at Reno University.

Q. What is your specialty?

A. Internal medicine.

Q. Can you describe your medical practice at the time of this incident?

A. I'm in solo practice in primary care, and also do some specialty work for varicose veins and leg pain issues.

Q. And your practice was open during the COVID pandemic?

A. Yes, I was fully opened.

Q. How long have you been practicing here in Nevada?

A. Over 25 years.
Q. And this your first Board of Medical Examiners complaint; correct?
A. Correct.
Q. And in your 26 years of practice, this was your first Board investigation; correct?
A. Correct.
HEARING OFFICER HALSTEAD: I'm sorry. Did you say -- I have he was in practice for over 25 years, and then you said "26 years." So over 25, could be 26, but I just want to clarify.
THE WITNESS: No. I said, "Over 25."
HEARING OFFICER HALSTEAD: Right. Over 25. And then your counsel asked a question and said "26," so I'm just clarifying. It's over 25, which would be 26, 28, 29. I'm taking it as 26.
BY MS. THOMAS:
Q. Dr. Kaveh, were you licensed in 1997 in Nevada; correct?
A. Correct.
HEARING OFFICER HALSTEAD: Thank you.
BY MS. THOMAS:
Q. During the time that you've been licensed, there's been no formal training or education offered by the Nevada Board regarding the Nevada Revised

Statutes, to your knowledge?

A. Correct.

Q. Likewise, there's been no informal training offered regarding the Nevada Revised Statutes or the dos and don'ts, if you will?

A. Correct.

Q. You attended residency in Reno?

A. Correct.

Q. Was any of the curriculum inclusive of training on the Nevada Revised Statutes?

A. No.

Q. You had relied on the -- you had relied on counsel for the interpretation of those statutes?

A. Correct.

Q. You requested that the Board of Pharmacy direct you to CME training resources regarding the Nevada Revised Statutes?

A. Correct.

Q. The Board of Pharmacy was unable to provide resources in this regarding; correct?

A. Yes.

Q. You also reached out to the Nevada Attorney General's Office to request information related to training on the Nevada Revised Statutes; correct?

A. Yes.

MR. SHOGREN: Objection --

BY MS. THOMAS:

Q. The Nevada Attorney's General's Office was unable --

HEARING OFFICER HALSTEAD: Hold on. Hold on, Ms. Thomas. I'm sorry. I don't think you heard, but there's been an objection.

MR. SHOGREN: I didn't speak up enough there, but I was objecting to the relevance of this line of questioning.

MS. THOMAS: These are factors of mitigation and reflect Dr. Kaveh's state of mind at the time of the alleged violation.

HEARING OFFICER HALSTEAD: How long do you anticipate this line of questioning going?

MS. THOMAS: A couple more questions. Maybe five.

HEARING OFFICER HALSTEAD: Okay. Go ahead.

MS. THOMAS: I apologize. I don't recall what question I was on and if I got an answer prior to Mr. Shogren's objection. I don't want to ask it again if you are able to --

HEARING OFFICER HALSTEAD: The last

question I have a note of was that he asked the AG regarding training for the statutory scheme and was not told of any resources, not verbatim.

MS. THOMAS: Okay.

BY MS. THOMAS:

Q. The Nevada Attorney General's Office was unable to provide resources in this regard; correct?

A. Correct.

Q. As part of this investigation that we're here for today, we -- you asked the Board to provide direction to CMEs regarding training on the Nevada Revised Statutes; correct?

A. Yes.

Q. The Board was unable to direct you to any CMEs on that topic; correct?

A. Correct.

Q. It's your understanding through present that the Nevada Board has no CMEs or training for licensees regarding their obligations under the Nevada Revised Statutes; correct?

A. That's correct.

MR. SHOGREN: Objection to relevance and --

BY MS. THOMAS:

Q. And you're --

HEARING OFFICER HALSTEAD: There's been an objection as to relevance. It's the same objection that was posed before.

You had indicated that these questions go to mitigation and you only had -- I think you got, maybe, three more. You indicated you had about five.

MS. THOMAS: Yes, that's correct. And same response to objections.

HEARING OFFICER HALSTEAD: I note the objection for the record. I'm placing it on the record as such.

And with those limited questions, please continue.

BY MS. THOMAS:

Q. And you're not a lawyer and have no legal training; correct?

A. Correct.

Q. You've already completed five CMEs in relation to this investigation in good faith; correct?

A. Yes.

Q. Those CMEs were approved and accepted by Board counsel; correct?

A. Yes.

Q. In the absence of any formal training available on your legal obligations under the Nevada Revised Statutes, you rely on the American Medical Association's policy of doing what is in the best interest of your patients; correct?

A. Yes.

Q. The subject patient's treatment occurred during the height of the COVID pandemic; correct?

MR. SHOGREN: Objection. Relevance.

HEARING OFFICER HALSTEAD: Ms. Thomas?

MS. THOMAS: This is a mitigating factor. This is a situation of unprecedented emergency related to supply chain issues, and it is a mitigating factor.

MR. SHOGREN: I just want to say this hearing is involved in the Stipulation and Order that Dr. Kaveh admitted he signed, and I don't see how this is relevant to the Stipulation and Order.

HEARING OFFICER HALSTEAD: Correct me if I'm wrong, but I just -- I get to make recommendations to the Board with regard to the -- if I find a violation, as to the punishment for the violation; correct?

MR. SHOGREN: Correct.

HEARING OFFICER HALSTEAD: Okay. And so

knowing that, do you still maintain that her line of questioning is irrelevant?

MR. SHOGREN: I would say it is, yes.

HEARING OFFICER HALSTEAD: Okay. To the extent I consider the same, for purposes of making a recommendation, it's relevant to that purpose.

I will admit it, but I don't want to spend too much time on it, and I do agree it doesn't go to the actual merits, that's my understanding, not why it's being sought.

MS. THOMAS: Yes.

BY MS. THOMAS:

Q. It was your personal experience in that reporting of your patients that supply chain issues were impacting timely access to certain medications; correct?

A. Correct.

Q. This includes the life-saving, antihypertensive medication, like the one that's at issue in this case; correct?

A. Correct.

Q. In fact, you submitted, electronically, a prescription on January 4, 2021, and it took close to 30 days for the patient to receive that medication; correct?

A. Correct.
Q. Your patient's, including the subject patient's, health and safety is always your primary concern; correct?
A. Correct.
Q. In the absence of a specific directive to the contrary, a doctor is to use their good judgment in treating a patient; correct?
A. Yes.
Q. The Board of Pharmacy was unable to provide any clarification on the Nevada Revised Statue and its definitions; correct?
A. Yes.
Q. A sample drug is not clearly defined under the Nevada Revised Statutes; correct?
A. Yes.
MR. SHOGREN: Objection --
BY MS. THOMAS:
Q. You did not --
HEARING OFFICER HALSTEAD: There's been an objection to the question that the sample -- I don't want to misstate Ms. Thomas -- drug, the definition of a sample drug was not clearly defined in the NRS.
I think the question -- and I don't want to tell everybody how to do your job, I think the

proper question is whether he felt that the statute was clearly defining versus a legal conclusion about whether the statute is vague.

With that, I will sustain the objection.

I also want to caution you, Ms. Thomas, you're asking leading questions on direct, which is not a problem because it's speeding things up and there has not been an objection, and so I appreciate getting this done in a timely and effective manner, but as a result, you're reading and going very quick, which is difficult for the court reporter.

MS. THOMAS: I apologize. I was doing that based on your earlier statement that the rules of evidence are dispensed in this hearing. But I will slow down.

HEARING OFFICER HALSTEAD: Thank you.

BY MS. THOMAS:

Q. You did not maintain a stocked pharmacy at your practice; correct?

A. Correct.

MR. SHOGREN: I --

BY MS. THOMAS:

Q. You did not dispense drugs at your practice; correct?

A. Correct.

HEARING OFFICER HALSTEAD: Were you -- did you have an objection?

MR. SHOGREN: I do. Once again, this path here, I think is irrelevant to this case. And these are leading questions as well.

HEARING OFFICER HALSTEAD: Okay. Well, if they are leading for purposes of time -- we can do this the long way or the short way -- I don't --

Ms. Thomas, I understand your point about the intent behind what happened, and I've limited to that going to recommendation, if I find a violation, with regard to the same to the Board.

How much further do you have down this line of questioning? Because I don't believe that there's been any allegation, nor would one be made for purposes of a recommendation, that Dr. Kaveh acted in bad faith.

MS. THOMAS: Okay. I only got, maybe, 20 questions left, total, 10, 15, not many left.

HEARING OFFICER HALSTEAD: Okay. Unless you feel the need to make a record on those line of questionings, I would just ask that you move on.

MS. THOMAS: I do feel the need to make the record.

HEARING OFFICER HALSTEAD: Okay. So, you

have 10 or 20 more questions about where he acted in violation, purportedly in bad faith?

MS. THOMAS: I got maybe 16 questions total. I do know I don't -- I don't believe all of them are related to bad faith.

HEARING OFFICER HALSTEAD: Okay. Go ahead.

BY MS. THOMAS:

Q. At appropriate times in your practice, you have provided patients with sample medications until they could fill their prescriptions; correct?

A. Yes.

Q. At all times --

MR. SHOGREN: Objection -- I'm sorry.

HEARING OFFICER HALSTEAD: Let me just put it this way: Mr. Shogren, do you want to have a continuing objection to this line of questioning?

MR. SHOGREN: I do.

HEARING OFFICER HALSTEAD: Okay. I'm going to note a continuing objection by Mr. Shogren for purposes of the record.

I've already made my point, so -- unless you feel the need to made make a record further, with that caveat, please continue.

BY MS. THOMAS:

Q. At all times, those sample were in sealed packaging with manufacturer's labeling; correct?

A. Correct.

Q. The medication at issue in this case was in a sealed bottle; correct?

A. Correct.

Q. It had the manufacturer's label affixed to the bottle; correct?

A. Yes.

Q. The medication in that sealed bottle was the medication depicted on the label; correct?

A. Yes.

Q. It was your experience and understanding that this specific medication took longer than pre-COVID to obtain from the supplying pharmacy; correct?

A. Yes.

Q. This medication is not a controlled substance; correct?

A. Correct.

Q. You had received no patient complaints regarding this investigation; correct?

A. Correct.

Q. In fact, the subject patient was grateful

for and satisfied with the care provided; correct?

A. Yes.

Q. The patient was not injured or harmed in any way by this medication; correct?

A. Correct.

Q. Based on your interpretation and notice of the Nevada Revised Statutes, you did not consider providing the sample as an act of dispensing; correct?

A. Right.

Q. Isn't is true that the American Medical Association's position is that physicians should make treatment decisions based on their patient's best interest?

MR. SHOGREN: Objection. Calls for a legal conclusion.

HEARING OFFICER HALSTEAD: I'm sorry, what was the question, Ms. Thomas?

MS. THOMAS: I asked: Isn't it true that the American Medical Association's position is that physicians should make treatment decisions based on their patient's best interest?

The American Medical Association is not a legal entity, but provides guidance.

HEARING OFFICER HALSTEAD: I suggest you

ask Dr. Kaveh his understanding of that.

MS. THOMAS: Okay.

BY MS. THOMAS:

Q. Is it your understanding that the American Medical Association's position is that physicians should make treatment decisions based on their patient's best interest?

A. Correct.

Q. You believed that's what you were doing here for this patient during the height of the COVID pandemic; correct?

A. Yes.

MS. THOMAS: I have nothing further.

HEARING OFFICER HALSTEAD: Any cross-examination, Mr. Shogren?

MR. SHOGREN: No.

HEARING OFFICER HALSTEAD: Do you have any further witness, Ms. Thomas?

MS. THOMAS: No.

HEARING OFFICER HALSTEAD: Okay. Would you like to take a break before you make your closings?

MS. THOMAS: Sure. Just briefly.

HEARING OFFICER HALSTEAD: It's 10:50, we'll come back at 11:00 for closing arguments.

(Recess from 10:50 a.m. to 11:00 a.m.)

HEARING OFFICER HALSTEAD: We took a small break. Both sides have closed their cases. It's now eleven o'clock, and we were going to move to closing statements.

With that, we'll start with you, Mr. Shogren.

CLOSING STATEMENT

MR. SHOGREN: Thank you. On behalf of the Investigative Committee, first, I'd like to thank everyone here, Ms. Halstead, Madam Court Reporter, opposing counsel, and Dr. Kaveh, as well as Mr. Diaz, who was present previously as a witness. I thank everyone for their good work and for their participation today.

As I mentioned in my opening statements, we're here to present evidence so the Board can determine if Dr. Kaveh violated the Medical Practice Act. This is based off of a formal Complaint with one single count. That is what we're here for today, the allegations in the Complaint. This is based off of a Stipulation and Order that Dr. Kaveh signed with the Board of Pharmacy.

Dr. Kaveh, as you heard today, did not contest that he signed the stipulation. He

testified that he did so freely and voluntarily. He also stated this through his counsel and other exhibits that were admitted today, such as the Board's Exhibit 4 that are admitted here into evidence for the Board's consideration, as well as Exhibit 3, which is the Answer that Dr. Kaveh provided through his counsel, today admitting that he signed the stipulation.

The stipulation itself, which was admitted today, lays out that the Board of Pharmacy found that Dr. Kaveh violated several provisions of NRS 639 and NAC 639, which can be found in the stipulation, and also the accusation, which is admitted as Exhibit 6.

The stipulation shows that Dr. Kaveh was sanctioned by the Board of Pharmacy, including a public reprimand, a fine, and reporting to the National Practitioner Data Bank. This is not in dispute today.

I know Dr. Kaveh, through his direct examination, testified, but his testimony did not refute this fact of this discipline from the Pharmacy Board.

In sum, testimony and evidence presented today has established by a preponderance of the

evidence that respondent, Sassan Kaveh, M.D., engaged in conduct that violated NRS Chapter 639, as well as regulations adopted by the Board of Pharmacy, as alleged in Count I of the Complaint.

On behalf of the Investigative Committee, we ask the Board to consider the record that is presented here and render the appropriate findings and discipline.

Thank you.

HEARING OFFICER HALSTEAD: Thank you, Mr. Shogren.

Ms. Thomas?

MS. THOMAS: Thank you.

CLOSING STATEMENT

MS. THOMAS: We will, likewise, like to thank all of the participants in today's hearing and for affording us the process to come here and make a record before you.

I'd like the start with NRS 630.307, the general requirements for filing a complaint.

"Except as otherwise provided in subsection 2, any person may file with the Board a complaint against a physician on a form provided by the Board. Any licensee, medical school, or medical facility can submit information regarding conduct

constituting grounds for discipline within 30 days of becoming aware of that conduct."

Subsection 3 of that statute relates to a hospital, clinic, or medical facility.

MR. SHOGREN: I hate to object to a closing argument, but this does not seem relevant to this case, what was heard today, this was not addressed.

HEARING OFFICER HALSTEAD: The objection is noted.

Go ahead, Ms. Thomas.

MS. THOMAS: Thank you.

"The clerk of every court shall report if a physician is mentally ill, incompetent, convicted of a felony" -- et cetera -- "or is liable for damages for malpractice."

None of those things occurred here.

It has been the Board's position that this is a summary proceeding and all that was required was the Stipulation and order entered into with the Pharmacy Board, and that that document itself was construed to be a complaint under NRS 630.307.

It is not. The Board is not a person. This is not written on a form provided by the Board. The legislative history supports that.

HEARING OFFICER HALSTEAD: Ms. Thomas, I didn't sustain the objection. I always want participants to make their record, but this was ruled on prior, and I'm cognizant of that, not -- because I believe the prior hearing officer ruled on this particular issue.

MS. THOMAS: The prior hearing officer found, based on Mr. Shogren's belated errata filed several months after the Complaint on September 8th, 2023, representing as an officer of the court, that an inadvertent clerical error was discovered on page 1, footnote 1, of the Complaint and should read as follows:

"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 Bret Frey, M.D., Chair, Chowdhury Ahsan, M.D., Ph.D., FACC, and Col. Eric Wade, United States Air Force, retired."

That was signed as an officer of the court. You've heard testimony today that three members were not present.

We are here based on an alleged violation of NRS 630. However, it is important to note for the record that multiple violations of NRS 630 had

occurred by the Board in prosecuting this case.

It was not the legislature's intent for the Board to be the judge, jury, and executioner.

Due process was denied to Dr. Kaveh.

Once this belated errata was served into this case, we requested and named in our prehearing statement the following witness, for which Mr. Shogren successfully precluded us from inquiry: Bret Frey, Col. Wade, and Chowdhury Asian.

We wanted to inquire into this belated amendment stating that all three were present on the Investigative Committee in this case. That did not occur. That information was revealed in testimony today, and we hope you will take it into consideration because that's stated in our opening, the rules apply to everyone or they can apply to no one.

Subsequently, Mr. Shogren attempted to get Dr. Kaveh to enter into a settlement agreement with the Board. We have since find out that the predicate of imposing a fine is not available under the Board's own internal disciplinary guidelines for fines. This was a negligence violation with no prior discipline and a licensee licensed for more than ten years. There was no fine.

This case took exponential time and resources when it was essentially boiled down to a summary proceeding.

What is the role of the investigator, then? There was no knowledge of the patient demographic, whether it was Patient R, there was no compliance with the requirements for a written client on a Board-issued form, the IC was improperly convened. The investigator doesn't even know the date of this IC.

Dr. Kaveh testified that he felt pressured to enter into the stipulation with the Pharmacy Board. What he didn't say is that is because there is a general distrust in the medical and legal community of these licensing boards because they are perceived to be heavy-handed and acting in a manner that is not in the interest of their licensees or in the protection of the public.

The odds are stacked against the licensees.

If you expect compliance with laws of the State of Nevada, the person enforcing compliance should know what those laws are in making the determination, and that did not occur here.

This case should be dismissed. Dr. Kaveh

did not violate any provision of the Nevada Revised Statutes 630 for which this Board has overlapping jurisdiction. This did not involve a controlled substance, this was a antihypertensive mediation. The standard of care applicable this case is relaxed during an unprecedented pandemic, the COVID-19 pandemic, and he did what was in the best interest of his patient. There was no patient harm. These are all mitigating factors.

Dr. Kaveh is an excellent provider, he makes himself available in his professional capacity and in his personal capacity in service to this community. And he -- the doctors are leaving in droves over things like this, and we need good providers in our community. There is not a basis to impose additional discipline.

Thank you.

HEARING OFFICER HALSTEAD: Thank you, Ms. Thomas.

Okay. If I recall right, I have 30 days to issue a written opinion, which I intend to do. I usually wait until I get a copy of the transcript, so there's a timing issue there.

I will issue written findings of facts and a recommendation that will be provided to the Board

for their consideration.

Is there anything further before we conclude this matter today?

MS. THOMAS: Yes, Ms. Halstead. Are you going to provide a copy of that transcript to myself and Dr. Kaveh, or do we need to go through your court reporter?

HEARING OFFICER HALSTEAD: I'll defer to --

MS. FUENTES: Once I receive the transcript from the court reporting agency, I serve a copy on all the parties, and I give a courtesy copy by email as well.

HEARING OFFICER HALSTEAD: Did you hear that, Ms. Thomas?

MS. THOMAS: I did.

HEARING OFFICER HALSTEAD: You will be provided a copy at the same time I am.

MS. THOMAS: And just to confirm, you previously stated that all the pleadings in this matter were considered part of the record, did I hear that correctly?

HEARING OFFICER HALSTEAD: I said that for purposes of the evidentiary hearing for documentation submitted as evidence, the ones that

were admitted are marked evidence for the hearing.

But there is a record in this matter with prior rulings that are, of course, part of the record.

MS. THOMAS: Okay. So I'm wondering if I need to separately move for admission of respondent's Exhibit A through -- well, respondent's Exhibit A, primarily.

HEARING OFFICER HALSTEAD: Anything that's in the record as far as prior rulings and adjudications, I will consider. I believe the Complaint -- the IC, generally, puts in the Complaint and some of the pleadings to be referred to during the hearing.

You don't need to formally admit -- it's my position that you don't need to formally admit that. I will consider all the prior filings and rulings as relevant as to the arguments that have been made today.

MS. THOMAS: Thank you very much.

HEARING OFFICER HALSTEAD: You're welcome. Anything further beyond that?

MS. THOMAS: No.

HEARING OFFICER HALSTEAD: Okay. Well, this was scheduled for two days. With this, the

matter will be concluded.

As you all did, I want to thank everyone for your time and attention, your professionalism.

Dr. Kaveh, thank you being here and addressing this with me.

I'm available if something comes up and the parties need to reach me, you can agree on three dates and times and reach out to me. If I don't hear from you, I will just issue some findings, and the matter will proceed in due course from there.

MS. THOMAS: Thank you.

HEARING OFFICER HALSTEAD: Thank you, everyone. That will conclude this matter.

(Proceedings concluded at 11:13 a.m.)

STATE OF NEVADA)
) ss.
COUNTY OF WASHOE)

I, BRANDI ANN VIANNEY SMITH, do hereby certify:

That I was present on August 28, 2024, for the hearing at the Nevada State Board of Medical Examiners, 9600 Gateway Drive, Reno, Nevada, and took stenotype notes of the proceedings entitled herein, and thereafter transcribed the same into typewriting as herein appears.

That the foregoing transcript is a full, true, and correct transcription of my stenotype notes of said proceedings consisting of 118 pages, inclusive.

DATED: At Reno, Nevada, this 8th day of September, 2024.

/s/ Brandi Ann Vianney Smith

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BRANDI ANN VIANNEY SMITH

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EXHIBIT W

EXHIBIT 1

EXHIBIT 1

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **SASSAN KAVEH, M.D.,** **Respondent.**	**Case No. 23-10414-1**

FILED
MAY - 8 2023
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 William P. Shogren, Deputy General Counsel and attorney for the IC, having a reasonable basis to believe that Sassan Keveh, M.D., (Respondent) violated the provisions of Nevada Revised Statutes (NRS) Chapter 630 and Nevada Administrative Code (NAC) Chapter 630 (collectively, the Medical Practice Act), hereby issues its Complaint, stating the IC's charges and allegations as follows:

1. Respondent was at all times relative to this Complaint a medical doctor holding an active license to practice medicine in the State of Nevada (License No. 8320). Respondent was originally licensed by the Board on July 18, 1997.

2. Respondent also, at all times relative to this Complaint, held an active Nevada Controlled Substance Registration, Certificate No. CS08877, issued by the Nevada State Board of Pharmacy (Pharmacy Board).

3. On or about August 25, 2021, Respondent was served with the First Amended Notice of Intended Action and Accusation (Accusation) by the Pharmacy Board, alleging that in 2021 Respondent violated various statutes and regulations within the Pharmacy Board's jurisdiction.

[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 Bret W. Frey, M.D., and Col. Eric D. Wade, USAF (Ret.).

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4. In pertinent part, the Pharmacy Board Accusation alleged that Respondent prescribed Edarbyclor, a dangerous drug, to a patient, and that the patient subsequently returned the unused medication to Respondent. The Pharmacy Board Accusation further alleged that Respondent then dispensed the unused Edarbyclor to another patient, in the original container with the original label as dispensed to the first patient. The Pharmacy Board further alleged that Respondent dispensed this medication without a valid dispensing practitioner registration.

5. On or about October 15, 2021, Respondent and the Pharmacy Board entered into a "Stipulation and Order" (Pharmacy Board Stipulation), hereto attached as **Exhibit 1**, whereby Respondent did not contest the allegations in the Accusation and acknowledged that counsel for the Pharmacy Board "could present such evidence at an administrative hearing to establish a factual basis" for violations against him.

6. Respondent accepted the Pharmacy Board Stipulation "as a public reprimand regarding his duties and responsibilities as a prescribing practitioner," and agreed to pay a fine and also to reimburse the Pharmacy Board for a portion of the costs incurred in investigating and prosecuting the matter.

COUNT I

NRS 630.306(1)(b)(3) – Violation of Statutes and Regulations of the Nevada State Board of Pharmacy

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

8. Respondent is a practitioner as defined by NRS 639.0125(1), as a physician who holds a license to practice medicine in the State of Nevada.

9. NRS 630.306(1)(b)(3) provides that engaging in conduct that violates a provision of Chapter 639 of NRS, or a regulation adopted by the Pharmacy Board pursuant thereto, that is applicable to a licensee who is a practitioner, as defined in NRS 639.0125, is grounds for initiating discipline against a licensee.

10. Respondent acknowledged the evidence against him would prove violations of NRS Chapter 639 when he entered into the Pharmacy Board Stipulation. Respondent further

accepted the Pharmacy Board Stipulation "as a public reprimand regarding his duties and responsibilities as a prescribing practitioner." *See* **Exhibit 1**. Respondent thereby engaged in conduct that violated a provision of Chapter 639 of NRS, or a regulation adopted by the Pharmacy Board pursuant thereto.

11. By reason of the foregoing, Respondent is subject to discipline by the Board as provided in NRS 630.306(1)(b)(3) and 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 8th day of May, 2023.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

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VERIFICATION

STATE OF NEVADA)
: ss.
COUNTY OF WASHOE)

Bret W. Frey, 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 8th day of May, 2023.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____
BRET W. FREY, M.D.
Chairman of the Investigative Committee

EXHIBIT 1

EXHIBIT 1

FILED
OCT 15 2021
NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY, **Petitioner,** **v.** **SASSAN KAVEH, MD,** **Certificate of Registration No. CS08877,** **Respondent.**	**CASE NO. 21-051-CS-N** **STIPULATION AND ORDER**

Brett Kandt, General Counsel for Petitioner the Nevada State Board of Pharmacy (Board), and Respondent Sassan Kaveh, MD, Certificate of Registration No. CS08877, by and through counsel, Keith A. Weaver, Esq. and Melanie L. Thomas, Esq., **HEREBY STIPULATE AND AGREE THAT:**

1. The Board has jurisdiction over Respondent and this matter.

2. On or about August 25, 2021, Respondent was served with the First Amended Notice of Intended Action and Accusation (Accusation) on file in this matter together with the Statement to Respondent and Notice of Hearing.

3. On or about September 24, 2021, Respondent filed an Answer and Notice of Defense to the Accusation.

4. Respondent is fully aware of the right to seek the advice of counsel in this matter and obtained the advice of counsel prior to entering into this Stipulation.

5. Respondent is aware of the right to a hearing on the matters alleged in the Accusation, the right to reconsideration, the right to appeal and any and all other rights which may be accorded to him pursuant to NRS Chapter 233B (Nevada Administrative Procedure Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).

6. Conditioned on the acceptance of this Stipulation by the Board, and with the exception of the right to challenge any determination that Respondent has failed to comply with the provisions of this Stipulation, Respondent hereby freely and voluntarily waives his rights to a hearing, reconsideration, appeal and any and all other rights related to this action that may be accorded to him by NRS Chapter 233B (Nevada Administrative Procedure Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).

7. Respondent does not contest the allegations in the Accusation, but acknowledges that Board staff prosecuting this case could present such evidence at an administrative hearing to establish a factual basis for the violations alleged in the Accusation, *to wit*, that:

A. Respondent dispensed a dangerous drug to a patient without a valid dispensing practitioner registration, in violation of NRS 453.226, NRS 453.321, NRS 453.377, NRS 453.381, NRS 454.215, NRS 454.221, NRS 454.321, NRS 454.356, NRS 639.100, NRS 639.23505 and/or NAC 639.742;

B. Respondent redispensed unused medication and thus a misbranded, mislabeled and potentially adulterated drug in violation of NRS 585.410, NRS 585.520, NRS 639.2801, NRS 639.282(1), NAC 639.601(1) and/or NAC 639.760; and

C. Respondent has performed his duties as the holder of a Nevada controlled substance registration in an incompetent, unskillful or negligent manner and engaged in unprofessional conduct as defined in NAC 639.945(1)(i) and (k), and committed an act that renders registration inconsistent with the public interest.

8. Those violations are plead with particularity in the Accusation, and are grounds for action pursuant to NRS 453.236(1), NRS 453.241(1), NRS 639.210 and NRS 639.255.

9. To resolve this matter without incurring any further costs or the expense associated with a hearing, the Board and Respondent Sassan Kaveh, MD, Certificate of Registration No. CS08877, stipulate to the following penalties:

A. Respondent shall accept this Stipulation and Order as a public reprimand regarding his duties and responsibilities as a prescribing practitioner;

B. Respondent shall pay a fine of Three Thousand Dollars ($3000.00) for the violations, payable by *cashier's check* or *certified check* or *money order* made payable to "State of Nevada, Office of the Treasurer," to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within thirty (30) days of the effective date of this Order;

C. Respondent shall pay One Thousand Five Hundred Dollars ($1500.00) to partially reimburse the Board for recoverable attorney's fees and costs incurred in investigating and prosecuting this matter, payable by *cashier's check* or *certified check* or *money order* made payable to "Nevada State Board of Pharmacy," to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within thirty (30) days of the effective date of this Order; and

D. Respondent shall comply with all federal and state statutes and regulations regarding controlled substances and dangerous drugs.

10. Any failure by Respondent to comply with the terms of this Order may result in issuance by the Executive Secretary of an order to show cause pursuant to NAC 639.965 directing that Respondent to appear before the Board at the next regularly scheduled meeting for a show cause hearing. If such a hearing results in a finding of a violation of this Order by Respondent, the Board may impose additional discipline upon Respondent consistent with the provisions of NRS Chapter 453 and/or Chapter 639.

11. General Counsel will present this Stipulation to the Board for approval pursuant to NRS 622.330 at the Board's regularly scheduled public meeting on October 13, 2021. Respondent will appear at the meeting to answer questions from the Board Members and/or Board Staff. The Board Members and Staff may discuss and deliberate regarding this Stipulation, even if Respondent is not present at the meeting.

12. The Board has discretion to accept this Stipulation, but it is not obligated to do so. If this Stipulation is approved by the Board, it shall be a public record pursuant to NRS 622.330 and shall be reported to the National Practitioner Data Bank pursuant to 42 U.S.C. § 1396r–2 and 45 CFR Part 60.

13. If the Board rejects any part or all of this Stipulation, and unless they reach an alternative agreement on the record during the hearing, the parties agree that a full hearing on the merits of this matter may be heard by the Board. The terms and admissions herein may not be used or referred to in a full hearing on the merits of this matter.

14. Subject to the approval of this Stipulation by the Board, the Board and Respondent agree to release each other from any and all additional claims arising from the facts set forth in the Accusation on file herein, whether known or unknown that might otherwise have existed on or before the effective date of this Order.

Respondent has fully considered the charges and allegations contained in the *Notice of Intended Action and Accusation* in this matter, and the terms of this Stipulation, and has freely and voluntarily agreed to the terms set forth herein, and waived certain rights, as stated herein.

AGREED:

Signed this 1 day of October, 2021

SASSAN KAVEH, MD,
Certificate of Registration No. CS08877

Signed this 1st day of October, 2021

BRETT KANDT, ESQ.
General Counsel
Nevada State Board of Pharmacy

APPROVED AS TO FORM AND CONTENT
this 1st day of October, 2021

KEITH A. WEAVER, ESQ.
MELANIE L. THOMAS, ESQ.
Counsel for Respondent

DECISION AND ORDER

The Nevada State Board of Pharmacy hereby adopts the foregoing Stipulation as its decision as to Sassan Kaveh, MD, Certificate of Registration No. CS08877, in Case No. 21-051-CS-N and hereby orders that the terms of the foregoing Stipulation be made effective upon execution below.

IT IS SO ORDERED.

Entered this 13th day of October, 2021.

Helen Park, Pharm.D.
President
Nevada State Board of Pharmacy

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 15th day of October, 2021, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Keith L. Weaver, Esq.
Melanie L. Thomas, Esq.
Lewis Brisbois Bisgaard & Smith LLP
6385 S. Rainbow Blvd., Suite 600
Las Vegas, NV 89118

KRISTOPHER MANGOSING

EXHIBIT 2

EXHIBIT 2

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **SASSAN KAVEH, M.D.,** **Respondent.**	**Case No. 23-10414-1**

FILED
MAY 16 2023
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

ACCEPTANCE OF SERVICE

Melanie L. Thomas, Esq., counsel for, Sassan Kaveh, M.D., Respondent, hereby acknowledges that she received a filed-stamped copy of the formal **COMPLAINT** by the Investigative Committee of the Nevada State Board of Medical Examiners in this matter by electronic mail, and in doing so, accepts service of the same and specifically waives formal service of process by mail or by other means.

DATED this 16th day of May, 2023.

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: _____

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EXHIBIT 3

EXHIBIT 3

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FILED
JUN 22 2023
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: SASSAN KAVEH, M.D., Respondent.	CASE NO. 23-10414-1 **ANSWER**

SASSAN KAVEH, M.D. ("Dr. Kaveh"), by and through his counsel LEWIS BRISBOIS BISGAARD & SMITH, LLP hereby submits his Answer to the Board's Complaint filed May 8, 2023.

ANSWER

1. Respondent admits the allegations in Paragraph 1.

2. Respondent admits the allegations in Paragraph 2.

3. Respondent admits the allegations in Paragraph 3.

4. Answering Paragraph 4, Respondent admits generally this summary of the Pharmacy Board Accusation, noting that the Edarbyclor was sealed and unused.

5. Answering Paragraph 5, Respondent admits that he entered into a Stipulation and Order with the Pharmacy Board on or about October 15, 2021, upon the advice of his counsel.

6. Answering Paragraph 6, Respondent admits that he entered into a Stipulation and Order with the Pharmacy Board on or about October 15, 2021, upon the advice of his counsel.

COUNT I

NRS 630.306(1)(b)(3) - Violation of Statutes and Regulations of the Nevada State Board of Pharmacy

7. Answering Paragraph 7, Respondent repeats and realleges all of the above paragraphs as if fully set forth herein.

8. Paragraph 8 calls for a for a legal conclusion, for which no response is required. Respondent admits that he is a Physician who holds a license to practice medicine in the State of Nevada.

9. Paragraph 9 calls for a for a legal conclusion, for which no response is required. Respondent denies that discipline is appropriate in this setting.

10. Paragraph 10 calls for a for a legal conclusion, for which no response is required. Respondent denies the remainder of the allegations in Paragraph 10.

11. Paragraph 11 calls for a for a legal conclusion, for which no response is required. Respondent denies the allegations contained in Paragraph 11.

FIRST AFFIRMATIVE DEFENSE

The Board's Complaint fails to state a claim on which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

The Board's Complaint, and each cause of action therein, is barred by the doctrine of laches, estoppel, and the doctrine of unclean hands.

THIRD AFFIRMATIVE DEFENSE

Respondent denies each and every allegation of the Board's Complaint not specifically admitted or otherwise pled to herein.

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WHEREFORE, Respondent prays for judgment as follows:

1. That all charges against him be dismissed;

2. For such other and further relief as may be deemed just and proper in these premises.

June 20, 2023

LEWIS BRISBOIS BISGAARD & SMITH LLP

By /s/ Melanie L. Thomas

MELANIE L. THOMAS
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Melanie.Thomas@lewisbrisbois.com
Attorneys for Sassan Kaveh, M.D.

EXHIBIT 4

EXHIBIT 4

LEWIS BRISBOIS

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November 10, 2021

File No. 27428-524

VIA U.S. MAIL AND EMAIL

Nevada Board of Medical Examiners
9600 Gateway Drive
Reno, NV 89521
Email: nsbme@medboard.nv.gov

Re: Nevada State Board of Pharmacy v. Sassan Kaveh, M.D.
Case No. 21-051-CS-N

To Whom it May Concern:

Please be advised that this office represented Dr. Kaveh with regard to the above-reference matter before the Nevada State Board of Pharmacy. Dr. Kaveh entered into a stipulation with the Board, wherein he accepted a public reprimand on October 13, 2021.

The matter related to a misunderstanding regarding the distinction between providing sample medications to a patient and dispensing, or furnishing, medications without a separate dispensing license from the Board. The medication at issue was not an opiate or controlled substance, but rather a sealed, unexpired anti-hypertensive medication meant to temporarily fill the gap for his patient's coverage to prevent hypertensive crisis. The unused medication bottle was donated by another patient of Dr. Kaveh who no longer needed the treatment. The patient donated the expensive medication hoping it could help someone else. The medication was provided to a different patient, in good faith and at no charge.

Dr. Kaveh believed he was providing the unused medication as a sample. He was unaware that this act could be construed by the Nevada State Board of Pharmacy as re-dispensing the medication without a dispensing license. Dr. Kaveh does not maintain a stock pharmacy in his practice, and does not dispense drugs to patients. When applicable, he would provide samples and/or write prescriptions using his prescribing license.

In addition, the patient that was provided the anti-hypertensive medication did not have any complaints regarding Dr. Kaveh and was not in any way harmed. In fact, she was very grateful to

Dr. Kaveh for providing her this medication while waiting for her own, separate prescription for this same medication to arrive.

In order to avoid incurring any further costs or expenses for the board associated with the hearing, Dr. Kavey agreed to enter into this stipulation with the Nevada State Board of Pharmacy. He has already complied with all terms of the agreement. Furthermore, Dr. Kaveh has taken such matters very seriously and plans to work together with the Pharmacy Board on clarifying some of these confusing and ambiguous statutes to educate the medical community.

While our reading of NRS 630.306 does not require this reporting, we wanted to reach out on Dr. Kaveh's behalf out of an abundance of caution. Please advise if you will require any additional information.

Very truly yours,

/s/ Melanie L. Thomas

Keith A. Weaver of
Melanie L. Thomas for
LEWIS BRISBOIS BISGAARD & SMITH LLP

KAW:MLT

EXHIBIT 5

EXHIBIT 5

FILED
OCT 15 2021
NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY, **Petitioner,** **v.** **SASSAN KAVEH, MD,** **Certificate of Registration No. CS08877,** **Respondent.**	**CASE NO. 21-051-CS-N** **STIPULATION AND ORDER**

Brett Kandt, General Counsel for Petitioner the Nevada State Board of Pharmacy (Board), and Respondent Sassan Kaveh, MD, Certificate of Registration No. CS08877, by and through counsel, Keith A. Weaver, Esq. and Melanie L. Thomas, Esq., **HEREBY STIPULATE AND AGREE THAT:**

1. The Board has jurisdiction over Respondent and this matter.

2. On or about August 25, 2021, Respondent was served with the First Amended Notice of Intended Action and Accusation (Accusation) on file in this matter together with the Statement to Respondent and Notice of Hearing.

3. On or about September 24, 2021, Respondent filed an Answer and Notice of Defense to the Accusation.

4. Respondent is fully aware of the right to seek the advice of counsel in this matter and obtained the advice of counsel prior to entering into this Stipulation.

5. Respondent is aware of the right to a hearing on the matters alleged in the Accusation, the right to reconsideration, the right to appeal and any and all other rights which may be accorded to him pursuant to NRS Chapter 233B (Nevada Administrative Procedure Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).

6. Conditioned on the acceptance of this Stipulation by the Board, and with the exception of the right to challenge any determination that Respondent has failed to comply with the provisions of this Stipulation, Respondent hereby freely and voluntarily waives his rights to a hearing, reconsideration, appeal and any and all other rights related to this action that may be accorded to him by NRS Chapter 233B (Nevada Administrative Procedure Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).

7. Respondent does not contest the allegations in the Accusation, but acknowledges that Board staff prosecuting this case could present such evidence at an administrative hearing to establish a factual basis for the violations alleged in the Accusation, *to wit,* that:

A. Respondent dispensed a dangerous drug to a patient without a valid dispensing practitioner registration, in violation of NRS 453.226, NRS 453.321, NRS 453.377, NRS 453.381, NRS 454.215, NRS 454.221, NRS 454.321, NRS 454.356, NRS 639.100, NRS 639.23505 and/or NAC 639.742;

B. Respondent redispensed unused medication and thus a misbranded, mislabeled and potentially adulterated drug in violation of NRS 585.410, NRS 585.520, NRS 639.2801, NRS 639.282(1), NAC 639.601(1) and/or NAC 639.760; and

C. Respondent has performed his duties as the holder of a Nevada controlled substance registration in an incompetent, unskillful or negligent manner and engaged in unprofessional conduct as defined in NAC 639.945(1)(i) and (k), and committed an act that renders registration inconsistent with the public interest.

8. Those violations are plead with particularity in the Accusation, and are grounds for action pursuant to NRS 453.236(1), NRS 453.241(1), NRS 639.210 and NRS 639.255.

9. To resolve this matter without incurring any further costs or the expense associated with a hearing, the Board and Respondent Sassan Kaveh, MD, Certificate of Registration No. CS08877, stipulate to the following penalties:

A. Respondent shall accept this Stipulation and Order as a public reprimand regarding his duties and responsibilities as a prescribing practitioner;

B. Respondent shall pay a fine of Three Thousand Dollars ($3000.00) for the violations, payable by *cashier's check* or *certified check* or *money order* made payable to "State of Nevada, Office of the Treasurer," to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within thirty (30) days of the effective date of this Order;

C. Respondent shall pay One Thousand Five Hundred Dollars ($1500.00) to partially reimburse the Board for recoverable attorney's fees and costs incurred in investigating and prosecuting this matter, payable by *cashier's check* or *certified check* or *money order* made payable to "Nevada State Board of Pharmacy," to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within thirty (30) days of the effective date of this Order; and

D. Respondent shall comply with all federal and state statutes and regulations regarding controlled substances and dangerous drugs.

10. Any failure by Respondent to comply with the terms of this Order may result in issuance by the Executive Secretary of an order to show cause pursuant to NAC 639.965 directing that Respondent to appear before the Board at the next regularly scheduled meeting for a show cause hearing. If such a hearing results in a finding of a violation of this Order by Respondent, the Board may impose additional discipline upon Respondent consistent with the provisions of NRS Chapter 453 and/or Chapter 639.

11. General Counsel will present this Stipulation to the Board for approval pursuant to NRS 622.330 at the Board's regularly scheduled public meeting on October 13, 2021. Respondent will appear at the meeting to answer questions from the Board Members and/or Board Staff. The Board Members and Staff may discuss and deliberate regarding this Stipulation, even if Respondent is not present at the meeting.

12. The Board has discretion to accept this Stipulation, but it is not obligated to do so. If this Stipulation is approved by the Board, it shall be a public record pursuant to NRS 622.330 and shall be reported to the National Practitioner Data Bank pursuant to 42 U.S.C. § 1396r–2 and 45 CFR Part 60.

13. If the Board rejects any part or all of this Stipulation, and unless they reach an alternative agreement on the record during the hearing, the parties agree that a full hearing on the merits of this matter may be heard by the Board. The terms and admissions herein may not be used or referred to in a full hearing on the merits of this matter.

14. Subject to the approval of this Stipulation by the Board, the Board and Respondent agree to release each other from any and all additional claims arising from the facts set forth in the Accusation on file herein, whether known or unknown that might otherwise have existed on or before the effective date of this Order.

Respondent has fully considered the charges and allegations contained in the *Notice of Intended Action and Accusation* in this matter, and the terms of this Stipulation, and has freely and voluntarily agreed to the terms set forth herein, and waived certain rights, as stated herein.

AGREED:

Signed this 4 day of October, 2021

SASSAN KAVEH, MD;
Certificate of Registration No. CS08877

Signed this 5th day of October, 2021

BRETT KANDT, ESQ.
General Counsel
Nevada State Board of Pharmacy

APPROVED AS TO FORM AND CONTENT
this 5th day of October, 2021

KEITH A. WEAVER, ESQ.
MELANIE L. THOMAS, ESQ.
Counsel for Respondent

DECISION AND ORDER

The Nevada State Board of Pharmacy hereby adopts the foregoing Stipulation as its decision as to Sassan Kaveh, MD, Certificate of Registration No. CS08877, in Case No. 21-051-CS-N and hereby orders that the terms of the foregoing Stipulation be made effective upon execution below.

IT IS SO ORDERED.

Entered this 13th day of October, 2021.

Helen Park, Pharm.D.
President
Nevada State Board of Pharmacy

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 15th day of October, 2021, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Keith L. Weaver, Esq.
Melanie L. Thomas, Esq.
Lewis Brisbois Bisgaard & Smith LLP
6385 S. Rainbow Blvd., Suite 600
Las Vegas, NV 89118

KRISTOPHER MANGOSING

EXHIBIT 6

EXHIBIT 6

FILED
AUG 25 2021
NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY, Petitioner, v. SASSAN KAVEH, MD, Certificate of Registration No. CS08877, Respondent.	CASE NO. 21-051-CS-N FIRST AMENDED NOTICE OF INTENDED ACTION AND ACCUSATION

J. David Wuest, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under NRS 233B.127(3) and as an accusation under NRS 622A.300(1) and NRS 639.241.

JURISDICTION

1. The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter and this respondent because at the time of the alleged events, Respondent Sassan Kaveh, MD, held a Nevada controlled substance registration, Certificate No. CS08877, issued by the Board.

FACTUAL ALLEGATIONS

2. On or about January 4, 2021, Respondent prescribed Edarbyclor (azilsartan/chlorthalidone) 40-12.5 mg tablets to patient C.S. The prescription was submitted electronically to Alliance Pharmacy in Ft. Worth, Texas, designated as Prescription No. 137852 in the pharmacy's computer system, and dispensed by mail to patient C.S. at his Las Vegas residence on or about February 1, 2021.

3. Patient C.S. subsequently returned the unused medication from Prescription No. 137852 to Respondent.

4. Respondent dispensed the unused medication from Prescription No. 137852 to patient D.O. at Respondent's Las Vegas office sometime between April 6 and April 16, 2021, in the original container with the original label as dispensed to patient C.S.

5. On or about April 24, 2021, patient D.O. was admitted to Banner Churchill Community Hospital in Fallon, Nevada, at which time hospital staff discovered that Prescription No. 137852 was prescribed for patient C.S. and seized the medication.

APPLICABLE LAW

6. No person may furnish or dispense a dangerous drug in Nevada without specific statutory authority to do so. NRS 454.215; NRS 454.221; NRS 454.321; NRS 454.356; NRS 639.100; NRS 639.23505; NAC 639.742.

7. A drug dispensed to a patient may not be subsequently dispensed to another patient. NRS 639.282(1)(a); NAC 639.760.

8. All prescriptions must be dispensed in a container to which is affixed a label or other device which clearly shows the name the person for whom prescribed. NRS 639.2801.

9. It is unlawful to sell or offer to sell or dispense or give away, any pharmaceutical preparation or drug which is no longer safe or effective for use, adulterated or misbranded. 21 U.S.C. § 331; 21 U.S.C. § 351; 21 U.S.C. § 352; NRS 585.410; NRS 585.520; NRS 639.282(1).

10. A drug shall be deemed to be misbranded if its labeling is false or misleading in any particular. 21 U.S.C. § 331; 21 U.S.C. § 352; NRS 585.410; NRS 585.520.

11. A prescription drug that is misbranded must be separated from other prescription drugs until it is destroyed or returned to the supplier. NAC 639.601(1).

12. Performing any duties as the holder of a controlled substance registration in an incompetent, unskillful or negligent manner constitutes unprofessional conduct or conduct contrary to the public interest pursuant to NAC 639.945(1)(i) and is grounds for suspension or revocation of any license or registration issued by the Board. NRS 639.210(4).

13. Performing any act, task or operation for which licensure, certification or registration is required without the required license, certificate or registration constitutes unprofessional conduct and conduct contrary to the public interest pursuant to NAC 639.945(1)(k) and is grounds for suspension or revocation of any license or registration issued by the Board. NRS 453.236(1) and NRS 639.210(4).

14. Violating, attempting to violate, assisting or abetting in the violation of or conspiring to violate any law or regulation relating to drugs is grounds for suspension or revocation of any license or registration issued by the Board. NRS 639.210(12).

15. The Board may suspend or revoke a registration issued pursuant to NRS 453.231 to prescribe or otherwise dispense a controlled substance upon a finding that the registrant has committed an act that would render registration inconsistent with the public interest. NRS 453.236(1)(e) and NRS 453.241(1).

FIRST CAUSE OF ACTION

Violations of State Law - Dispensing without a Valid Registration

16. By furnishing and/or dispensing a dangerous drug to patient D.O. without a valid dispensing practitioner registration, as alleged herein, Respondent violated NRS 453.226, NRS 453.321, NRS 453.377, NRS 453.381, NRS 454.215, NRS 454.221, NRS 454.321, NRS 454.356, NRS 639.100, NRS 639.23505 and/or NAC 639.742, and is subject to discipline pursuant to NRS 453.236(1) and/or NRS 639.210(12).

SECOND CAUSE OF ACTION

Violations of Federal and State Law – Unlawfully Redispensing Drug

17. By furnishing and/or dispensing the unused medication from Prescription No. 137852 to patient D.O. in the original container with the original label as dispensed to patient C.S., as alleged herein, Respondent unlawfully redispensed a misbranded, mislabeled and potentially adulterated drug in violation of 21 U.S.C. § 331, 21 U.S.C. § 351, 21 U.S.C. § 352, NRS 585.410, NRS 585.520, NRS 639.2801, NRS 639.282(1), NAC 639.601(1) and/or NAC 639.760, and is subject to discipline pursuant to NRS 453.236(1) and NRS 639.210(11) and (12).

THIRD CAUSE OF ACTION

Unprofessional Conduct – Incompetent, Unskillful or Negligent Performance of Duties

18. By redispensing a dangerous drug to a patient as alleged herein, Respondent has performed his duties as the holder of a Nevada controlled substance registration in an incompetent, unskillful or negligent manner and engaged in unprofessional conduct as defined in

NAC 639.945(1)(i), and is subject to discipline pursuant to NRS 453.236(1) and NRS 639.210(4).

FOURTH CAUSE OF ACTION

Unprofessional Conduct – Dispensing without a Valid Registration

19. By a dispensing a dangerous drug without a valid dispensing practitioner registration as alleged herein, Respondent engaged in unprofessional conduct and conduct contrary to the public interest pursuant to NAC 639.945(1 (k) and is subject to discipline pursuant to NRS 453.236(l) and/or NRS 639.210(4).

FIFTH CAUSE OF ACTION

Commission of Acts that Render Registration Inconsistent with the Public Interest

20. By his actions as alleged in the first through fourth causes of action and his numerous violations of Federal and State law, Respondent has committed acts that render his Nevada controlled substance registration inconsistent with the public interest, and is subject to discipline pursuant to NRS 453.236(1)(e) and NRS 453.241(1).

WHEREFORE it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificate of registration of this respondent.

DATED this 25th day of August, 2021.

Yenh Long, Pharm.D.,
Deputy Executive Secretary of the Nevada State Board of Pharmacy, for and on behalf of
J. David Wuest, R.Ph., Executive Secretary of the Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the First Amended Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two (2) copies of the Answer and Notice of Defense served herewith, to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this First Amended Notice of Intended Action and Accusation. NRS 622A.320; NRS 639.243. Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY, Petitioner, v. **SASSAN KAVEH, MD,** **Certificate of Registration No. CS08877,** **Respondent.**	CASE NOS. 21-051-CS-N **STATEMENT AND NOTICE OF HEARING**

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy (Board) by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B and 622A, a First Amended Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, J. David Wuest, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the First Amended Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the First Amended Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two (2) copies of the Answer and Notice of Defense served herewith, to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Statement and Notice, and of the First Amended Notice of Intended Action and Accusation served within. NRS 639.320; NRS 639.243.

III.

The Board has scheduled your hearing on this matter for Wednesday, October 13, 2021, at 9:00 a.m. or soon thereafter. Pursuant to Governor Steve Sisolak's Emergency

Directive 044 and AB 253, the meeting can be listened to or viewed live over Zoom remotely or at the following location:

Hampton Inn Las Vegas Strip South
7850 Giles Street
Las Vegas, NV 89123

Via Videoconference at Zoom: https://zoom.us/j/5886256671
or
Via Teleconference at 1 (669) 900-6833
Meeting ID: 588 625 6671

IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

DATED this 25th day of August, 2021.

Yenh Long, Pharm.D.,
Deputy Executive Secretary of the Nevada State Board of Pharmacy, for and on behalf of
J. David Wuest, R.Ph., Executive Secretary of the Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY, Petitioner, v. **SASSAN KAVEH, MD,** **Certificate of Registration No. CS08877,** **Respondent.**	CASE NO. 21-051-CS-N **ANSWER AND NOTICE OF DEFENSE**

Respondent above named, in answer to the First Amended Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his/her objection to the First Amended Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him/her, is hereby interposed on the following grounds: (State specific objections or insert "none").

2. That, in answer to the First Amended Notice of Intended Action and Accusation, he/she admits, denies and alleges as follows:

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this _____ day of _____, 2021.

_____

SASSAN KAVEH, MD

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 25th day of August, 2021, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Sassan Kaveh, MD
3150 N. Tenaya Way #400
Las Vegas, NV 89128

Keith Weaver, Esq.
Lewis Brisbois Bisgaard & Smith LLP
6385 S. Rainbow Blvd., Suite 600
Las Vegas, NV 89118

SHIRLEY HUNTING

EXHIBIT 7

EXHIBIT 7

NRS 630.306 Inability to practice medicine; deceptive conduct; violation of regulation governing practice of medicine or adopted by State Board of Pharmacy; unlawful distribution of controlled substance; injection of silicone; practice beyond scope of license; practicing experimental medicine without consent of patient or patient's family; lack of skill or diligence; alcohol or other substance use disorder; filing of false report; failure to report certain changes of information or disciplinary or criminal action in another jurisdiction; failure to be found competent after examination; certain operation of a medical facility; prohibited administration of anesthesia or sedation; engaging in unsafe or unprofessional conduct; knowingly or willfully procuring or administering certain controlled substances or dangerous drugs; failure to supervise medical assistant adequately; allowing person not enrolled in accredited medical school to perform certain activities; failure to obtain required training regarding controlled substances; unauthorized injection of dermal or soft tissue fillers or botulinum toxin; failure to comply with requirements related to testing for sexually transmitted diseases; violations related to pelvic examinations.

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

(a) Inability to practice medicine with reasonable skill and safety because of illness, a mental or physical condition or the use of alcohol, drugs, narcotics or any other substance.

(b) Engaging in any conduct:

(1) Which is intended to deceive;

(2) Which the Board has determined is a violation of the standards of practice established by regulation of the Board; or

(3) Which is in violation of a provision of chapter 639 of NRS, or a regulation adopted by the State Board of Pharmacy pursuant thereto, that is applicable to a licensee who is a practitioner, as defined in NRS 639.0125.

(c) Administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or herself or to others except as authorized by law.

(d) Performing, assisting or advising the injection of any substance containing liquid silicone into the human body, except for the use of silicone oil to repair a retinal detachment.

(e) Practicing or offering to practice beyond the scope permitted by law or performing services which the licensee knows or has reason to know that he or she is not competent to perform or which are beyond the scope of his or her training.

(f) Performing, without first obtaining the informed consent of the patient or the patient's family, any procedure or prescribing any therapy which by the current standards of the practice of medicine is experimental.

(g) Continual failure 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.

(h) Having an alcohol or other substance use disorder.

(i) Making or filing a report which the licensee or applicant knows to be false or failing to file a record or report as required by law or regulation.

(j) Failing to comply with the requirements of NRS 630.254.

(k) Failure by a licensee or applicant to report in writing, within 30 days, any disciplinary action taken against the licensee or applicant by another state, the Federal Government or a foreign country, including, without limitation, the revocation, suspension or surrender of a license to practice medicine in another jurisdiction. The provisions of this paragraph do not apply to any disciplinary action taken by the Board or taken because of any disciplinary action taken by the Board.

(l) Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against the licensee or applicant, other than a minor traffic violation, in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

(m) Failure to be found competent to practice medicine as a result of an examination to determine medical competency pursuant to NRS 630.318.

(n) Operation of a medical facility at any time during which:

(1) The license of the facility is suspended or revoked; or

(2) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

➥ This paragraph applies to an owner or other principal responsible for the operation of the facility.

(o) Failure to comply with the requirements of NRS 630.373.

(p) Engaging in any act that is unsafe or unprofessional conduct in accordance with regulations adopted by the Board.

(q) Knowingly or willfully procuring or administering a controlled substance or a dangerous drug as defined in chapter 454 of NRS that is not approved by the United States Food and Drug Administration, unless the unapproved controlled substance or dangerous drug:

(1) Was procured through a retail pharmacy licensed pursuant to chapter 639 of NRS;

(2) Was procured through a Canadian pharmacy which is licensed pursuant to chapter 639 of NRS and which has been recommended by the State Board of Pharmacy pursuant to subsection 4 of NRS 639.2328;

(3) Is cannabis being used for medical purposes in accordance with chapter 678C of NRS; or

(4) Is an investigational drug or biological product prescribed to a patient pursuant to NRS 630.3735 or 633.6945.

(r) Failure to supervise adequately a medical assistant pursuant to the regulations of the Board.

(s) Failure to comply with the provisions of NRS 630.3745.

(t) Failure to obtain any training required by the Board pursuant to NRS 630.2535.

(u) Failure to comply with the provisions of NRS 454.217 or 629.086.

(v) Failure to comply with the provisions of NRS 441A.315 or any regulations adopted pursuant thereto.

(w) Performing or supervising the performance of a pelvic examination in violation of NRS 629.085.

2. As used in this section, "investigational drug or biological product" has the meaning ascribed to it in NRS 454.351.

(Added to NRS by 1983, 302; A 1985, 2238; 1987, 199, 800, 1554, 1575; 2007, 3046; 2009, 533, 879, 2961, 2962; 2011, 257, 2612; 2015, 116, 492, 985, 1536; 2017, 1254; 2019, 982, 3885; 2021, 1571, 3140)

EXHIBIT 8

EXHIBIT 8

Disciplinary and Other Actions

NRS 639.210 Grounds for suspension or revocation of certificate, license, registration or permit or denial of application. The Board may suspend or revoke any certificate, license, registration or permit issued pursuant to this chapter, and deny the application of any person for a certificate, license, registration or permit, if the holder or applicant:

1. Is not of good moral character;
2. Is guilty of habitual intemperance;
3. Becomes or is intoxicated or under the influence of liquor, any depressant drug or a controlled substance, unless taken pursuant to a lawfully issued prescription, while on duty in any establishment licensed by the Board;
4. Is guilty of unprofessional conduct or conduct contrary to the public interest;
5. Has a substance use disorder;
6. Has been convicted of a violation of any law or regulation of the Federal Government or of this or any other state related to controlled substances, dangerous drugs, drug samples, or the wholesale or retail distribution of drugs;
7. Has been convicted of:

(a) A felony relating to holding a certificate, license, registration or permit pursuant to this chapter;
(b) A felony pursuant to NRS 639.550 or 639.555; or
(c) Other crime involving moral turpitude, dishonesty or corruption;

8. Has been convicted of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;
9. Has willfully made to the Board or its authorized representative any false statement which is material to the administration or enforcement of any of the provisions of this chapter;
10. Has obtained any certificate, certification, license or permit by the filing of an application, or any record, affidavit or other information in support thereof, which is false or fraudulent;
11. Has violated any provision of the Federal Food, Drug and Cosmetic Act or any other federal law or regulation relating to prescription drugs;
12. Has violated, attempted to violate, assisted or abetted in the violation of or conspired to violate any of the provisions of this chapter or any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy, or has knowingly permitted, allowed, condoned or failed to report a violation of any of the provisions of this chapter or any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy committed by the holder of a certificate, license, registration or permit;
13. Has failed to renew a certificate, license or permit by failing to submit the application for renewal or pay the renewal fee therefor;
14. Has had a certificate, license or permit suspended or revoked in another state on grounds which would cause suspension or revocation of a certificate, license or permit in this State;
15. Has, as a managing pharmacist, violated any provision of law or regulation concerning recordkeeping or inventory in a store over which he or she presides, or has knowingly allowed a violation of any provision of this chapter or other state or federal laws or regulations relating to the practice of pharmacy by personnel of the pharmacy under his or her supervision;
16. Has repeatedly been negligent, which may be evidenced by claims of malpractice settled against him or her;
17. Has failed to maintain and make available to a state or federal officer any records in accordance with the provisions of this chapter or chapter 453 or 454 of NRS;
18. Has failed to file or maintain a bond or other security if required by NRS 639.515;
19. Has dispensed a self-administered hormonal contraceptive under the protocol established pursuant to NRS 639.28077 without complying with NRS 639.28078; or
20. Has operated a medical facility, as defined in NRS 449.0151, at any time during which:

(a) The license of the facility was suspended or revoked; or
(b) An act or omission occurred which resulted in the suspension or revocation of the license pursuant to NRS 449.160.

➥ This subsection applies to an owner or other principal responsible for the operation of the facility.

[Part 16:286:1913; A 1951, 290; 1953, 588]—(NRS A 1967, 1647; 1971, 685, 2040; 1973, 778; 1975, 1311; 1979, 1689; 1981, 272, 597; 1983, 1507; 1985, 880; 1987, 670, 1567, 1578; 1991, 1159; 1993, 793; 1995, 1713; 2003, 2713; 2005, 1616; 2009, 894; 2011, 857; 2021, 3271)

EXHIBIT A

The Complaint Process



EXHIBIT B

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 IVAN LEE GOLDSMITH, M.D., Respondent.	**Case No. 18-8756-1**

FILED
OCT 17 2018
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

COMPLAINT

The Investigative Committee[1] (IC) of the Nevada State Board of Medical Examiners (Board) hereby issues this formal Complaint (Complaint) against Ivan Lee Goldsmith, M.D. (Respondent), a physician licensed in Nevada. After investigating this matter, the IC has a reasonable basis to believe that Respondent has violated provisions of Nevada Revised Statutes (NRS) Chapter 630 and Nevada Administrative Code (NAC) Chapter 630 (collectively, the Medical Practice Act). The IC alleges the following facts:

A. Respondent's Violations of Nevada Prescribing Laws, and the Nevada State Board of Pharmacy's Disciplinary Action.

1. Respondent is a physician licensed to practice medicine in the State of Nevada (License No. 6116). He has been continuously licensed by the Board since August 25, 1990.

2. Respondent held both a Controlled Substance Registration, Certificate No. CS20816, and a Practitioner Dispensing Registration, Certificate No. PD00413, issued by the Nevada State Board of Pharmacy (Pharmacy Board) at the time of the events set forth herein in this Section A.

3. On Wednesday, September 5, 2018, in Reno, Nevada, the Pharmacy Board held a formal disciplinary hearing in Pharmacy Board Case No. 17-101-CS-S, pertaining to allegations by the Pharmacy Board against Respondent. Pursuant to the final disciplinary order of the

[1] The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board), at the time this formal Complaint was authorized for filing, was composed of Board members Wayne Hardwick, M.D., Chairman, Mr. M. Neil Duxbury, and Aury Nagy, M.D.

Pharmacy Board, dated September 13, 2018 (Pharmacy Board Order), the Pharmacy Board made formal findings of fact, *inter alia*, as follows:

a. On December 9, 2013, the Pharmacy Board granted Respondent an account for Internet access to the Nevada Prescription Monitoring Program (PMP) for purposes authorized under federal and state law.

b. Before receiving access, Respondent signed a Practitioner Certification Statement on December 6, 2013, stating that he understood and agreed under penalty of perjury that he was responsible for all patient information transmitted from his account, that he would treat PMP information as confidential, that he would protect any PMP information in his possession or control in accordance with federal and state laws governing health care information, and that he would safeguard his password and not share his login credentials with any other person.

c. Stephen Paddock (Paddock) was the perpetrator of the October 1, 2017, Las Vegas mass shooting, and committed suicide immediately after the incident, sometime before midnight.

d. On or about October 2, 2017, Respondent verified through his office electronic medical records system (EMR) that Paddock was never his patient.

e. From October 2, 2017, at 9:25 a.m., to October 3, 2017, at 2:20 p.m., Respondent's PMP account was used to query the PMP database five separate times using different search parameters for each query, to access Paddock's confidential patient information, and to obtain patient utilization reports detailing Paddock's prescription-controlled substance utilization history.

f. The fourth search, conducted on October 3, 2017, at 10:18 a.m., yielded specific prescription information regarding two prescriptions for Paddock filled at Evergreen Drugs in Henderson, Nevada in 2016, and at a Walgreens pharmacy in Reno, Nevada, in 2017.

g. On October 3, 2017 at 9:00 p.m., the Las Vegas Review-Journal published an article written by reporter Paul Harasim. That article purported to include

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Paddock's confidential patient information, including information about the two prescriptions, which the reporter attributed to and obtained from the PMP.

h. The Las Vegas Review-Journal updated the article on October 4, 2017, at 10:00 a.m., to reference specific prescription data and prescriber information related to Paddock from June 7, 2016, and June 21, 2017.

i. Respondent's PMP account is the only possible source for the details in the Las Vegas Review-Journal article that are attributed to the PMP, because only the fourth search from his PMP account corresponds to the dates and time frames specified in the article.

j. On or about November 8, 2017, Respondent, through his counsel, Jacob L. Hafter, Esq., filed an Amended Declaration with the Eighth Judicial District Court of Clark County, Nevada, in Case No. A-17-762877-W, in which Respondent admits to directing his office staff to use his PMP account to query Paddock's confidential patient information and to obtain patient utilization reports on October 2, 2017, and again on October 3, 2017.

k. In his Amended Declaration, Respondent also admits to routinely allowing his staff to use his PMP account to query the PMP on his behalf.

4. Pursuant to the Pharmacy Board Order, the Pharmacy Board made conclusions of law, *inter alia*, as follows:

a. By accessing or directing his staff to access Paddock's confidential data in the PMP database, when Paddock was deceased and never his patient, and by obtaining Paddock's patient utilization report, Respondent performed his duties as the holder of a Nevada Controlled Substance Registration in an incompetent, unskillful or negligent manner and engaged in unprofessional conduct or conduct contrary to the public interest pursuant to NAC 639.945(l)(i). Respondent's Controlled Substance Registration, Certificate of Registration No. CS20816, and Practitioner Dispensing Registration, Certificate No. PD00413, are therefore subject to discipline pursuant to NRS 639.210(4) and NRS 639.255.

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b. By accessing or directing his staff to access Paddock's confidential data in the PMP database, when Paddock was deceased and never his patient, and by obtaining Paddock's patient utilization report, Respondent violated the HIPAA Privacy Rule. His Controlled Substance Registration, Certificate of Registration No. CS20816, and Practitioner Dispensing Registration, Certificate No. PD00413, are therefore subject to discipline pursuant to NRS 639.210(11) and NRS 639.255.

c. By accessing or directing his staff to access Paddock's confidential data in the PMP database, when Paddock was deceased and never his patient, and by obtaining Paddock's patient utilization report, Respondent violated, attempted to violate, assisted or abetted in the violation of, or conspired to violate NRS 453.164(7) and/or the HIPAA Privacy Rule. His Controlled Substance Registration, Certificate of Registration No. CS20816, and Practitioner Dispensing Registration, Certificate No. PD00413, are therefore subject to discipline pursuant to NRS 639.210(12) and NRS 639.255.

d. By disclosing, or allowing to be disclosed, to the Las Vegas Review-Journal and/or writer Paul Harasim Paddock's confidential PMP data and patient utilization report, which were accessed only by Respondent's PMP account on October 2 and October 3, 2017, Respondent violated state and federal law, including the HIPAA Privacy Rule and NRS 639.164(7). His Controlled Substance Registration, Certificate of Registration No. CS20816, and Practitioner Dispensing Registration, Certificate No. PD00413, are therefore subject to discipline pursuant to NRS 639.210(4), (11) and (12) as well as NRS 639.255.

e. By accessing or directing his staff to access Paddock's confidential data in the PMP database, when Paddock was deceased and never his patient, and by obtaining Paddock's patient utilization report, Respondent committed an act that would render his Nevada Controlled Substance Registration inconsistent with the public interest pursuant to NRS 453.231, and is subject to discipline pursuant to NRS 453.236(l)(d) and NRS 453.241(1).

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5. Based on the foregoing, pursuant to the Pharmacy Board Order, the Pharmacy Board ordered, *inter alia*, that Respondent's Certificates of Registration Nos. CS20816 and PD00413, be revoked, with the revocation stayed, and Respondent's Certificates of Registration Nos. CS20816 and PD00413 were placed on probation for one (1) year subject to the following conditions. Respondent shall:

a. Implement and provide to Board Staff internal controls and procedures within thirty (30) days of the effective date of this Order to ensure that his staff does not use his PMP account to query the PMP on his behalf except as authorized by law;

b. Pay a fine of Two Thousand Dollars ($2,000.00) for each of the five (5) violations of law, for a total of Ten Thousand Dollars ($10,000.00). Payment shall be made by cashier's check or certified check or money order made payable to "State of Nevada, Office of the Treasurer" to be received by the Board's Reno office located at 431 W. Plumb Lane, Reno, NV 89509, within thirty (30) days of the effective date of this Order; and

c. Pay Sixteen Thousand Dollars ($16,000.00) to partially reimburse the Board for reasonable attorney's fees and costs incurred in investigating and prosecuting this matter. Payment shall be made by cashier's check, certified check or money order made payable to the "Nevada State Board of Pharmacy" to be received by the Board's Reno office located at 431 W. Plumb Lane, Reno, NV 89509, within thirty (30) days of the effective date of this Order.

COUNT I

NRS 630.306(1)(b)(3) (Engaging in Conduct That Violated Pharmacy Board Regulations)

6. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

7. Pursuant to NRS 630.346(4), in any disciplinary hearing, a certified copy of the record of a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation, limitation, modification, denial or surrender of a license to practice medicine is conclusive evidence of its occurrence.

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8. 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.

9. By the misconduct set forth in the Pharmacy Board Order, which order is conclusive evidence of its occurrence, Respondent engaged in conduct that violates regulations adopted by the Pharmacy Board, specifically including but not limited to NAC 639.945(1)(i).

10. 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 630.301(9) (Disreputable Conduct)

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

12. Pursuant to NRS 630.346(4), in any disciplinary hearing, a certified copy of the record of a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation, limitation, modification, denial or surrender of a license to practice medicine is conclusive evidence of its occurrence.

13. Conduct that brings the medical profession into disrepute is grounds for discipline pursuant to NRS 630.301(9), 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.

14. By the misconduct set forth in the Pharmacy Board Order, which order is conclusive evidence of its occurrence, Respondent engaged in conduct that brings the medical profession into disrepute.

15. 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 Adequately Supervise a Medical Assistant)

16. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

17. NRS 630.306(1)(r) provides that a failure to adequately supervise a medical

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assistant pursuant to the regulations of the Board is an act that constitutes grounds for initiating disciplinary action.

18. Pursuant to NAC 630.830, a delegating practitioner retains responsibility for the safety and performance of each task which is delegated to a medical assistant.

19. By the misconduct set forth in the Pharmacy Board Order, which order is conclusive evidence of its occurrence, Respondent failed to adequately supervise his medical assistants in their performance of medical tasks.

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

B. Respondent's Dispensing of Controlled Substances to Himself.

21. Pursuant to NRS 453.256(7), an individual practitioner may not dispense a substance included in schedule II, III or IV for the practitioner's own personal use except in a medical emergency.

22. Pursuant to NAC 453.010(2), a medical "emergency" within the meaning of NRS 453.256 and Nevada State Board of Pharmacy regulations means a situation in which a prescribing practitioner determines that:

> (a) Immediate administration of the controlled substance is necessary for the proper treatment of the patient;
> (b) No appropriate alternative treatment is available, including administration of a drug which is not a controlled substance under schedule II of the Uniform Controlled Substances Act; and
> (c) It is not reasonably possible for the prescribing practitioner to provide a written prescription to be presented to the person dispensing the substance before he or she dispenses it.

23. Respondent prescribed and dispensed Phentermine 37.5 mg tablets to himself for his own personal, non-emergency use on December 1, 2014, March 27, 2015, July 27, 2015, and October 19, 2015.

24. Phentermine is a Schedule IV controlled substance pursuant to NAC 453.540(5).

25. Respondent prescribed and dispensed Phendimetrazine 35 mg tablets to himself for his own personal, non-emergency use on on June 29, 2015.

26. Phendimetrazine is a Schedule III controlled substance pursuant to NAC 453.530(2)(e).

COUNT IV

NRS 630.306(1)(b)(3) (Engaging in Conduct That Violated Pharmacy Board Regulations)

27. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

28. 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.

29. By the conduct described in this Section B, Respondent engaged in conduct that violates regulations adopted by the Pharmacy Board, specifically including but not limited to NAC 453.010(2).

30. 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 V

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

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

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

33. The Board adopted by reference the *Dietary Guidelines for Americans, 2010*, 7th edition, published jointly by the United States Department of Health and Human Services and the Department of Agriculture pursuant to 7 U.S.C. § 5341 (Dietary Guidelines).

34. NAC 630.205 sets forth the professional standards for the prescription of appetite suppressants, which specifically incorporates the Dietary Guidelines.

35. Respondent prescribed appetite suppresants to himself in a manner that violated the professional standards for the prescription of appetite suppressants, and the Dietary Guidelines.

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

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Count VI

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

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

38. 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 initiating discipline against a licensee.

39. Respondent failed to maintain complete medical records relating to the diagnosis, treatment and care of himself.

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

COUNT VII

NRS 630.306(1)(p) (Unsafe or Unprofessional Conduct)

41. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

42. Engaging in any act that is unsafe or unprofessional conduct in accordance with regulations adopted by the Board is grounds for disciplinary action against a licensee pursuant to NRS 630.306(1)(p).

43. As demonstrated by, but not limited to, the above-outlined facts, Respondent wrote prescriptions and dispensed appetite suppressants to himself in a manner that violated the professional standards for the prescription of appetite suppressants, and the Dietary Guidelines.

44. Respondent's conduct was unsafe and unprofessional.

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

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C. Respondent's Violation of, and Failure to Ensure Compliance With, Nevada Pharmacy Laws.

46. Respondent's physician assistants, Lindsay Hoffman, PA-C, and Adam Luckette, PA-C, dispensed controlled substances and dangerous drugs to patients of Respondent, from Respondent's store of medications, while he was out of the country.

47. Respondent's physician assistants, Lindsay Hoffman, PA-C, and Adam Luckette, PA-C, prescribed medication to patients of Respondent, without a bona fide therapeutic relationship with said patients.

48. No person may prescribe and dispense controlled substances in Nevada except as authorized by law. NRS 453.226; NRS 453.375(1); NRS 453.377; NRS 639.235(1); NAC 639.742(1), (3) and (4); 21 CFR § 1301.11; 21 CFR § 1306.03.

49. NAC 639.742 states in relevant part:

> 1. A practitioner who wishes to dispense controlled substances or dangerous drugs must apply to the Board on an application provided by the Board for a certificate of registration to dispense controlled substances or dangerous drugs.
>
> . . .
>
> 3. Except as otherwise provided in NRS 639.23277 and NAC 639.395, the dispensing practitioner and, if applicable, the owner or owners of the facility, shall ensure that:
>
> (a) All drugs are ordered by the dispensing practitioner;
>
> (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;
>
> (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;
>
> . . .
>
> 4. With regard to the filling and dispensing of a prescription at a facility, only the dispensing practitioner or a dispensing technician may:
>
> (a) Enter the room or cabinet in which drugs are stored;
>
> (b) Remove drugs from stock;
>
> (c) Count, pour or reconstitute drugs;

(d) Place drugs into containers;
(e) Produce and affix appropriate labels to containers that contain or will contain drugs;
(f) Fill containers for later use in dispensing drugs; or
(g) Package or repackage drugs.

50. 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:

(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.

(o) Prescribing a drug as a prescribing practitioner to a patient with whom the prescribing practitioner does not have a bona fide therapeutic relationship.

51. 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.

52. 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.

53. Pursuant to NAC 630.370(1)(d)(1)-(2), a supervising physician is responsible for all the medical activities of his or her physician assistant and shall ensure strict compliance with the provisions of the certificate of registration issued to his or her physician assistant by the Pharmacy Board, and Pharmacy Board regulations regarding controlled substances and dangerous drugs.

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Count VIII

NRS 630.306(1)(c) (Unauthorized Dispensing)

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

55. Pursuant to NRS 630.306(1)(c), dispensing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to others except as authorized by law is grounds for discipline.

56. By allowing his physician assistants to dispense controlled substances and dangerous drugs to patients when he was not on-site at his medical facility, Respondent violated NAC 639.742 and NAC 639.945.

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

Count IX

NRS 630.306(1)(c) (Unauthorized Prescribing)

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

59. Pursuant to NRS 630.306(1)(c), dispensing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to others except as authorized by law is grounds for discipline.

60. By allowing his physician assistants to prescribe medication to patients of Respondent, without a bona fide therapeutic relationship with said patients, Respondent, pursuant to NAC 630.370(1)(d)(1)-(2), violated NAC 639.945.

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

Count X

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

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

63. 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 initiating discipline against a licensee.

64. Respondent failed to maintain complete and accurate medical records relating to the diagnosis, treatment and care of the patients to whom Respondent and Respondent's staff dispensed and prescribed controlled substances and dangerous drugs as described in this Section C.

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

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

DATED this 17 day of October, 2018.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____
Aaron Bart Fricke, Esq., Deputy General Counsel
Attorney for the Investigative Committee

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VERIFICATION

STATE OF NEVADA)
: ss.
COUNTY OF WASHOE)

Wayne Hardwick, 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 October, 2018.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

Wayne Hardwick

Wayne Hardwick, M.D., Chairman

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EXHIBIT C

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BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against RAANAN ELAN POKROY, M.D., Respondent.

Case No. 19-38366-1

FILED
MAR 2 1 2019
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 Bart Fricke, Esq., Deputy General Counsel and attorney for the IC, having a reasonable basis to believe that Raanan Elan Pokroy, 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 is and at all times relative to this Complaint was a physician holding an active license to practice medicine in the State of Nevada (License No. 13839). Respondent was originally licensed by the Board on March 7, 2011.

A. Respondent's Violations of Nevada Prescribing Laws, and the Nevada State Board of Pharmacy's Disciplinary Action.

2. Respondent held a Controlled Substance Registration, Certificate No. CS25754, issued by the Nevada State Board of Pharmacy (Pharmacy Board) at the time of the events set forth herein in this Section A.

3. Respondent was the proprietor of Reviv LLC, a Nevada Limited-Liability Company (Reviv), which was at all times relevant to this Complaint engaged in the business of offering various elective intravenous therapies and concierge medical services in Nevada.

[1] The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board), at the time this formal Complaint was authorized for filing, was composed of Board members Wayne Hardwick, M.D., Chairman, Mr. M. Neil Duxbury, and Aury Nagy, M.D.

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4. On or about December 14, 2018, the Pharmacy Board served Respondent with a Notice of Intended Action and Accusation (Accusation) in Pharmacy Board Case No. 17-098-S (Pharmacy Board Action). On or about March 4, 2019, Respondent entered into a Stipulation and Order with the Pharmacy Board, which became a final Decision and Order of the Pharmacy Board on March 6, 2019 (Pharmacy Board Order). In the Pharmacy Board Order, the Respondent freely and voluntarily waived his rights to a hearing, reconsideration, appeal and any and all other rights related to the Pharmacy Board Action, and Respondent neither contested nor admitted the Pharmacy Board's allegations, which were pled with particularity in the Accusation, to wit, that Respondent:

a. By allowing Reviv's staff, including Registered Nurses (RNs), none of whom were practitioners and none of whom were licensed to prescribe/order dangerous drugs, to use his authority to obtain, access and/or possess an inventory of dangerous drugs when he was not onsite and without his direct supervision, Respondent violated, or assisted and abetted his staff in violating NRS 454.213.

b. By allowing Reviv's staff, including RNs, none of whom were practitioners and none of whom were licensed to prescribe dangerous drugs, to use his authority to obtain, access and/or possess an inventory of dangerous drugs when he was not onsite and without his direct supervision, Respondent engaged in unprofessional conduct as defined in NAC 639.945(1)(g), (i) and (k).

c. By authorizing Reviv's staff, including RNs, none of whom were licensed practitioners, to use his authority to determine that a dangerous drug was medically appropriate and to administer a dangerous drug to Reviv's patients, Respondent violated, and/or aided and abetted Reviv's staff in violating Nevada Law, including NAC 639.945(1)(g), (i), (k) and (o).

d. By authorizing Reviv's staff, including RNs, none of whom were licensed practitioners, to administer a dangerous drug to patients who had not been

examined by a practitioner, with whom he did not have a bona fide therapeutic relationship and for whom he had not made any diagnosis or determination that the dangerous drug was medically necessary, Respondent violated, and/or aided and abetted Reviv's staff in violating Nevada law, including NAC 639.945(l)(g), (i), (k) and (o).

e. By purchasing compounded dangerous drugs from a pharmacy not licensed with the Pharmacy Board, Respondent violated, or assisted and abetted that pharmacy in violating NAC 639.6915.

5. Pursuant to the Pharmacy Board Order, Respondent stipulated to, and the Pharmacy Board ordered, *inter alia*, the following sanctions and conditions:

a. Respondent shall receive a public letter of reprimand from the Pharmacy Board regarding each of the violations set forth in Causes of Action 1 through 5, as stated in the Accusation.

b. Respondent's Controlled Substance Registration, Certificate No. CS25754, shall be placed on probation, effective immediately, and shall remain on probation for not less than twelve (12) months from the effective date of the Pharmacy Board Order.

c. The probationary status of Respondent's controlled substance registration is subject to the following terms and conditions. Respondent agrees to and shall:

i. Immediately establish and put into practice policies and procedures within his offices/clinics to ensure that:

1. A bona fide relationship between the patient and the practitioner ordering a controlled substance or dangerous drug exists before any controlled substance or dangerous drug is ordered or administered,

2. The practitioner who examines the patient and orders the controlled substance or dangerous drug maintains exclusive

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possession and control of the medication until after he or she creates a patient-specific and medication-specific order for the administration of the medication,

3. To the extent a controlled substance or dangerous drug called for in an order is put into the possession and control of anyone other than a practitioner, the ordering practitioner personally gives possession and control of the controlled substance or dangerous drug to the non-practitioner and only gives the non-practitioner the specific medication in the specific quantity needed to fill the order,
4. Respondent and his offices/clinics will purchase medications only from a Nevada-licensed and federally registered outsourcing facility, and
5. Respondent and the staff at his office/clinic comply with all other federal and state laws regarding the possession, control and administration of controlled substances and dangerous drugs.

d. Each of Respondent's offices/clinics may be subject to quarterly unannounced inspections by Pharmacy Board staff for one (1) year at Respondent's expense.

6. Pursuant to NRS 630.346(4), in any disciplinary hearing, a certified copy of the record of a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation, limitation, modification, denial or surrender of a license to practice medicine is conclusive evidence of its occurrence.

7. On information and belief, the allegations of the Pharmacy Board as pled with particularity in the Accusation are true and correct.

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COUNT I

NRS 630.306(1)(b)(3) (Engaging in Conduct That Violated Pharmacy Board Regulations)

8. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

9. 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.

10. By the conduct set forth in the Pharmacy Board Order, Respondent engaged in conduct that violates regulations adopted by the Pharmacy Board, specifically including but not limited to NAC 639.945(1)(g), (i), (k) and (o), and NAC 639.6915.

11. 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 630.306(1)(c) (Illegal Administration of Dangerous Drugs)

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

13. Pursuant to NRS 630.306(1)(c), administering any dangerous drugs to others except as authorized by law is grounds for initiating disciplinary action.

14. By the conduct set forth in the Pharmacy Board Order, Respondent administered dangerous drugs in violation of NRS 454.213.

15. 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 Adequately Supervise a Medical Assistant)

16. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

17. NRS 630.306(1)(r) provides that a failure to adequately supervise a medical assistant pursuant to the regulations of the Board is grounds for initiating disciplinary action.

18. By the conduct described herein, Respondent as proprietor of Reviv failed to adequately supervise his medical assistants in the performance of medical tasks by, *inter alia*, authorizing Reviv's staff to administer a dangerous drug to patients who had not been examined by Respondent and with whom he did not have a bona fide therapeutic relationship and for whom he had not made any diagnosis or determination that the dangerous drug was medically necessary.

19. 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 VI

NRS 630.305(1)(e) (Aiding Practice by Unlicensed Person)

20. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

21. NRS 630.305(1)(e) provides that the 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 an act, among others, that constitutes grounds for initiating disciplinary action.

22. By the conduct described herein, to the extent that Respondent either did not delegate medical tasks to Reviv staff as medical assistants, or to the extent that their actions were not authorized by Respondent, Respondent nonetheless aided, assisted and advised unlicensed persons, both directly and indirectly, in their engaging in the practice of medicine contrary to the provisions of NRS Chapter 630 or the regulations of the Board by, *inter alia*, authorizing Reviv's staff to administer a dangerous drug to patients who had not been examined by Respondent and with whom he did not have a bona fide therapeutic relationship and for whom he had not made any diagnosis or determination that the dangerous drug was medically necessary.

23. 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 V

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

24. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

25. NRS 630.3062(1)(a) provides that the failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient is an act, among others, that constitutes grounds for initiating disciplinary action.

26. Pursuant to NAC 630.830, as delegating practitioner, Respondent is professionally responsible for the safety and performance of each task which is delegated to a medical assistant.

27. Respondent and his medical assistants failed to maintain timely, legible, accurate and complete medical records by failing to include patient histories, clinical notes, examination findings, tests performed, procedures performed, dangerous drugs and hypodermic devices used, administered or prescribed, or therapeutic procedures performed that can be attributed to Respondent, among other omissions.

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.

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

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

DATED this 21 day of March, 2019.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

Aaron Bart Fricke, Esq., Deputy General Counsel
Attorney for the Investigative Committee

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9600 Gateway Drive
Reno, Nevada 89521
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VERIFICATION

STATE OF NEVADA)
: ss.
COUNTY OF WASHOE)

Wayne Hardwick, 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 21st day of March, 2019.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

Wayne Hardwick

Wayne Hardwick, M.D., Chairman

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EXHIBIT D

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BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against JOYCE PO KIN CHANG, M.D., Respondent.

Case No. 19-33320-1

FILED
JAN 09 2019
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 Bart Fricke, Esq., Deputy General Counsel and attorney for the IC, having a reasonable basis to believe that Joyce Po Kin Chang, 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 is a physician and holds an active license to practice medicine in the State of Nevada (License No. 12643). She was originally licensed by the Board on February 28, 2008.

A. Respondent's Violations of Nevada Prescribing Laws, and the Nevada State Board of Pharmacy's Disciplinary Action.

2. Respondent held both a Controlled Substance Registration, Certificate No. CS15881, and a Practitioner Dispensing Registration, Certificate No. PD00340, issued by the Nevada State Board of Pharmacy (Pharmacy Board) at the time of the events set forth herein in this Section A.

3. On or about September 7, 2018, the Pharmacy Board served Respondent with a Notice of Intended Action and Accusation (Accusation) in Pharmacy Board Case

[1] The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board), at the time this formal Complaint was authorized for filing, was composed of Board members Wayne Hardwick, M.D., Chairman, Mr. M. Neil Duxbury and Aury Nagy, M.D.

No. 18-029-CS-S (Pharmacy Board Action). In lieu of filing an Answer to the Accusation, on or about October 10, 2018, Respondent entered into a Stipulation and Order with the Pharmacy Board, which became a final Decision and Order of the Pharmacy Board on October 10, 2018 (Pharmacy Board Order). In the Pharmacy Board Order, the Respondent freely and voluntarily waived her rights to a hearing, reconsideration, appeal and any and all other rights related to the Pharmacy Board Action, and Respondent neither contested nor admitted the Pharmacy Board's allegations, which were pled with particularity in the Accusation, to wit, that Respondent:

a. Aided and abetted the unlawful prescribing of controlled substances in violation of federal law, including 21 CFR § 1306.03, 21 CFR § 1306.04, and 21 CFR § 1306.05, and Nevada law, including NRS 453.321(1)(a), NRS 453.331(1)(c), (d), (f) and (i), NRS 639.2813(1) and NAC 453.440(1)(c);

b. Aided and abetted the unlawful prescribing of dangerous drugs in violation of NRS 454.223(2)(a), NRS 454.311(1) and (2), NRS 639.235(1), NRS 639.2813(1) and NAC 454.060(1);

c. Unlawfully prescribed controlled substances and dangerous drugs to patients with whom she did not have a bona fide practitioner/patient relationship in violation of NRS 639.235 and/or NRS 639.23911(1)(a);

d. Failed to segregate expired medications from unexpired medications and secure those expired medications in an area where they could not be used to administer or fill prescriptions in violation of NRS 639.282(1)(d), NAC 639.510(3) and NAC 639.601(1);

e. Failed to keep and produce records documenting patient names and dates for Hydroquinone Tretinoin and/or Juvederm syringes dispensed or administered by her office, and failed to maintain a recordkeeping system with a readily retrievable record of her patients' names and the dates for Hydroquinone Tretinoin and/or Juvederm injections dispensed or

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administered by her office, in violation of NRS 639.234(4) and NAC 639.745(1)(a) and 3; and

f. Engaged in conduct violative of NAC 639.945(1)(h) by allowing other practitioners to treat her patients and bill Medicaid and other commercial health insurance plans using Respondent's National Provider Identifier, thereby representing falsely that Respondent provided the services and prescriptions personally, and causing Medicaid and other commercial health insurance plans to submit payment to her office for services she did not provide.

4. Pursuant to the Pharmacy Board Order, Respondent stipulated to, and the Pharmacy Board ordered, *inter alia*, the following penalty:

a. That Respondent's Controlled Substance Registration, Certificate No. CS15881, and Practitioner Dispensing Registration, Certificate No. PD00340, were each revoked.

5. Pursuant to NRS 630.346(4), in any disciplinary hearing, a certified copy of the record of a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation, limitation, modification, denial or surrender of a license to practice medicine is conclusive evidence of its occurrence.

6. On information and belief, the allegations of the Pharmacy Board as pled with particularity in the Accusation are true and correct.

COUNT I

NRS 630.306(1)(b)(3) (Engaging in Conduct That Violated Pharmacy Board Regulations)

7. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

8. 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.

9. By the conduct set forth in the Pharmacy Board Order, Respondent engaged in conduct that violates regulations adopted by the Pharmacy Board, specifically including but not

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limited to NAC 453.440(1)(c), NAC 454.060(1), NAC 639.510(3), NAC 639.601(1), NAC 639.745(1)(a) and (3), and NAC 639.945(1)(h).

10. 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 630.306(1)(c) (Illegal Dispensing of Controlled Substances)

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

12. Pursuant to NRS 630.306(1)(c), prescribing or dispensing any controlled substance to others except as authorized by law is grounds for disciplinary action against a licensee.

13. By the conduct set forth in the Pharmacy Board Order, Respondent prescribed and dispensed controlled substances in violation of federal law, including 21 CFR § 1306.03, 21 CFR § 1306.04, and 21 CFR § 1306.05, and Nevada law, including NRS 453.321(1)(a), NRS 453.331(1)(c), (d), (f) and (i), NRS 639.2813(1), NAC 453.440(1)(c), NRS 454.223(2)(a), NRS 454.311(1) and (2), NRS 639.235(1), NRS 639.2813(1), NAC 454.060(1), and NRS 639.235 and/or NRS 639.23911(1)(a).

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

COUNT III

NRS 630.305(1)(d) (Charging for Services Not Rendered or Documented)

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

16. NRS 630.305(1)(d) provides that charging for visits to a physician's office which did not occur or for services which were not rendered or documented in the records of the patient is grounds for discipline.

17. By the conduct set forth in the Pharmacy Board Order, Respondent charged for visits to her office which did not occur or for services which were not rendered or documented in the records of the patient by allowing other practitioners to treat her patients and bill Medicaid and

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other commercial health insurance plans using Respondent's National Provider Identifier, thereby representing falsely that Respondent provided the services and prescriptions personally, and causing Medicaid and other commercial health insurance plans to submit payment to her office for services she did not provide.

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

COUNT IV

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

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

20. 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 initiating discipline against a licensee.

21. By the conduct set forth in the Pharmacy Board Order, Respondent failed to maintain complete medical records relating to the diagnosis, treatment and care of patients by, *inter alia*, failing to keep and produce records documenting patient names and dates for Hydroquinone Tretinoin and/or Juvederm syringes dispensed or administered by her office, and failed to maintain a recordkeeping system with a readily retrievable record of her patients' names and the dates for Hydroquinone Tretinoin and/or Juvederm injections dispensed or administered by her office, in violation of NRS 639.234(4) and NAC 639.745(l)(a) and (3).

22. 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 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);

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

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

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

DATED this 8th day of January, 2019.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: Aaron Bart Fricke

Aaron Bart Fricke, Esq., Deputy General Counsel
Attorney for the Investigative Committee

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VERIFICATION

STATE OF NEVADA)
: ss.
COUNTY OF CLARK)

Rachakonda D. Prabhu, 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 9th day of January, 2019.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

D Prabhu Rachakonda MD

Rachakonda D. Prabhu, M.D., Chairman

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against JOYCE PO KIN CHANG, M.D., Respondent.	**Case No. 19-33320-1**

ERRATA TO COMPLAINT

This is an errata to correct an insubstantial error in the Complaint filed January 9, 2019, in this matter, and should be appended thereto.

Footnote 1 on page 1 should read as follows:

"The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board), at the time this formal Complaint was authorized for filing, was composed of Board members Rachakonda D. Prabhu, M.D., Victor M. Muro, M.D., and Ms. April Mastroluca."

Dated this 22 day of January, 2019.

By: _____
Aaron Bart Fricke, Esq., Deputy General Counsel
Attorneys for the Investigative Committee

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EXHIBIT E

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against VICTORIA K. WALL, M.D., Respondent.	**Case No. 20-18832-1**

FILED
SEP - 8 2020
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
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COMPLAINT

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

1. Respondent was at all times relative to this Complaint a medical doctor holding an inactive license to practice medicine in the State of Nevada (License No. 12154).

2. Respondent was initially licensed by the Medical Board on January 5, 2007.

3. Respondent voluntarily put her license in inactive status in or about May 2009 and has remained inactive to present, and pursuant to NRS 630.255, the licensee must meet conditions before resuming the practice of medicine in this State, to which Respondent did not comply.

4. Pursuant to NRS 630.020, prescribing controlled substances is the practice of medicine.

5. Pursuant to NRS 639.235(1), no person other than a practitioner holding a license to practice his or her profession in this State may prescribe or write a prescription.

[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 M. Neil Duxbury, Chairman, Aury Nagy, M.D., and Michael C. Edwards, M.D., FACS.

6. On June 5, 2020, the Nevada State Board of Pharmacy (Pharmacy Board) served Respondent with an order to cease and desist prescribing controlled substances to Nevada patients.

7. On or about June 14, 2020, Respondent surrendered her DEA Certificate of Registration (CS15026) which had allowed her to order, possess, dispense, administer, prescribe, or engage in any other activities with controlled substances or list I chemicals.

Count I

NRS 630.306(1)(b)(3) (Violation of a Regulation Adopted by the State Board of Pharmacy)

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

9. NRS 630(1)(b)(3) provides that engaging in any conduct which is a violation of a regulation adopted by the State Board of Pharmacy constitutes grounds for disciplinary action.

10. NAC 639.945(h) provides that it is unprofessional conduct and conduct contrary to the public interest to perform or in any way be a party to any fraudulent or deceitful practice or transaction.

11. Upon information and belief, Respondent renewed her license to prescribe controlled substances each renewal period since 2009, and represented to the Pharmacy Board that she had an active license issued by the Medical Board.

12. 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 630.304(1) (Misrepresentation in Obtaining or Renewing License)

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

14. NRS 630.304(1) provides that obtaining, maintaining or renewing or attempting to obtain, maintain or renew a license to practice medicine by bribery, fraud or misrepresentation or by any false, misleading, inaccurate or incomplete statement constitutes grounds for initiating disciplinary action.

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15. Respondent has maintained an inactive license since in or about May 2009 to present, and attested that she would not physically practice medicine in the State of Nevada on her renewal application.

16. Respondent did practice medicine in the State of Nevada when she prescribed controlled substances to Patients A, B, C, and D, while attesting on her renewal application to the Medical Board that she would not practice medicine in the State of Nevada.

17. 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 III – Patient A

NRS 630.306(1)(c) (Unlawful Prescribing of a Controlled Substance or Dangerous Drug)

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

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

20. NRS 630.306(1)(c) provides that administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or herself or to others except as authorized by law constitutes grounds for initiating disciplinary action.

21. Respondent prescribed Patient A controlled substances multiple times between in or about January 2012 and in or about March 2020.

22. Respondent did not have an active license to practice medicine, prescribing controlled substances is the practice of medicine, and therefore, these prescriptions were not authorized by law.

23. 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 IV – Patient B

NRS 630.306(1)(c) (Unlawful Prescribing of a Controlled Substance or Dangerous Drug)

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

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

26. NRS 630.306(1)(c) provides that administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or herself or to others except as authorized by law constitutes grounds for initiating disciplinary action.

27. Respondent prescribed Patient B controlled substances multiple times between in or about February 2014 and in or about December 2017.

28. Respondent did not have an active license to practice medicine, prescribing controlled substances is the practice of medicine, and therefore, these prescriptions were not authorized by law.

29. 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 V – Patient C

NRS 630.306(1)(c) (Unlawful Prescribing of a Controlled Substance or Dangerous Drug)

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

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

32. NRS 630.306(1)(c) provides that administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or herself or to others except as authorized by law constitutes grounds for initiating disciplinary action.

33. Respondent prescribed Patient C controlled substances multiple times between in or about September 2012 and in or about February 2014.

34. Respondent did not have an active license to practice medicine, prescribing controlled substances is the practice of medicine, and therefore, these prescriptions were not authorized by law.

35. 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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OFFICE OF THE GENERAL COUNSEL
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Count VI – Patient D

NRS 630.306(1)(c) (Unlawful Prescribing of a Controlled Substance or Dangerous Drug)

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

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

38. NRS 630.306(1)(c) provides that administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or herself or to others except as authorized by law constitutes grounds for initiating disciplinary action.

39. Respondent prescribed Patient D a controlled substance in or about December 2012.

40. Respondent did not have an active license to practice medicine, prescribing controlled substances is the practice of medicine, and therefore, these prescriptions were not authorized by law.

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.

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

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OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
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5. That the Board take such other and further action as may be just and proper in these premises.

DATED this 8th day of September, 2020.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____
Donald K. White, Esq., Deputy General Counsel
Attorney for the Investigative Committee

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
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Reno, Nevada 89521
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VERIFICATION

STATE OF NEVADA)
: ss.
COUNTY OF WASHOE)

Mr. M. Neil Duxbury, 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 8th day of September, 2020.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

M. Neil Duxbury

By: _____
M. Neil Duxbury, Chairman

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

EXHIBIT F

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE B
November 10, 2021

Victor M. Muro, M.D., Chair, Aury Nagy, M.D., and Ms. Maggie Arias-Petrel

The Committee, in its review, conducted the following business:

Total Cases Considered	135
Total Cases Authorized for Filing Formal Complaint (to be published)	8
Total Cases Authorized for Peer Review	13
Total Cases Requiring an Appearance	5
Total Cases Authorized for a Letter of Concern	26
Total Cases Authorized for Further Follow-up or Investigation	5
Total Cases Reviewed for Compliance	1
Total Cases Authorized for Closure	77

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE A
November 19, 2021

Bret W. Frey, M.D., Chair, Chowdhury H. Ahsan, M.D., Ph.D., FAAC, and Col. Eric D. Wade, USAF (Ret.)

The Committee, in its review, conducted the following business:

Total Cases Considered	146
Total Cases Authorized for Filing Formal Complaint (to be Published)	12
Total Cases Authorized for Peer Review	20
Total Cases Requiring an Appearance	10
Total Cases Authorized for a Letter of Concern	30
Total Cases Authorized for Further Follow-up or Investigation	7
Total Cases Reviewed for Compliance	0
Total Cases Authorized for Closure	67

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE B
February 9, 2022

Victor M. Muro, M.D., Chair, Aury Nagy, M.D., and Ms. Maggie Arias-Petrel

The Committee, in its review, conducted the following business:

Total Cases Considered	137
Total Cases Authorized for Filing Formal Complaint (to be published)	14
Total Cases Authorized for Peer Review	34
Total Cases Requiring an Appearance	8
Total Cases Authorized for a Letter of Concern	14
Total Cases Authorized for Further Follow-up or Investigation	3
Total Cases Reviewed for Compliance	0
Total Cases Authorized for Closure	64

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE A
February 18, 2022

Bret W. Frey, M.D., Chair, Chowdhury H. Ahsan, M.D., Ph.D., FACC, and Col. Eric D. Wade, USAF (Ret.)

The Committee, in its review, conducted the following business:

Total Cases Considered	124
Total Cases Authorized for Filing Formal Complaint (to be Published)	9
Total Cases Authorized for Peer Review	28
Total Cases Requiring an Appearance	4
Total Cases Authorized for a Letter of Concern	19
Total Cases Authorized for Further Follow-up or Investigation	6
Total Cases Reviewed for Compliance	0
Total Cases Authorized for Closure	58

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE B
May 11, 2022

Victor M. Muro, M.D., Chair, Aury Nagy, M.D., and Ms. Maggie Arias-Petrel

The Committee, in its review, conducted the following business:

Total Cases Considered	143
Total Cases Authorized for Filing Formal Complaint (to be published)	13
Total Cases Authorized for Peer Review	20
Total Cases Requiring an Appearance	11
Total Cases Authorized for a Letter of Concern	19
Total Cases Authorized for Further Follow-up or Investigation	4
Total Cases Reviewed for Compliance	0
Total Cases Authorized for Closure	76

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE A
May 31, 2022

Bret W. Frey, M.D., Chair, Chowdhury H. Ahsan, M.D., Ph.D., FACC, and Col. Eric D. Wade, USAF (Ret.)

The Committee, in its review, conducted the following business:

Total Cases Considered	174
Total Cases Authorized for Filing Formal Complaint (to be Published)	13
Total Cases Authorized for Peer Review	28
Total Cases Requiring an Appearance	10
Total Cases Authorized for a Letter of Concern	30
Total Cases Authorized for Further Follow-up or Investigation	2
Total Cases Reviewed for Compliance	1
Total Cases Authorized for Closure	90

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE C
August 11, 2022

Aury Nagy, M.D., Chair, Ms. Maggie Arias-Petrel, and
Nicola (Nick) M. Spirtos, M.D., F.A.C.O.G.

The Committee, in its review, conducted the following business:

Total Cases Considered	72
Total Cases Authorized for Filing Formal Complaint (to be published)	7
Total Cases Authorized for Peer Review	23
Total Cases Requiring an Appearance	1
Total Cases Authorized for a Letter of Concern	29
Total Cases Authorized for Further Follow-up or Investigation	1
Total Cases Reviewed for Compliance	0
Total Cases Authorized for Closure	11

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE A
August 19, 2022

Bret W. Frey, M.D., Chair, Col. Eric D. Wade, USAF (Ret.), and
Carl N. Williams, Jr., M.D., FACS

The Committee, in its review, conducted the following business:

Total Cases Considered	166
Total Cases Authorized for Filing Formal Complaint (to be Published)	21
Total Cases Authorized for Peer Review	16
Total Cases Requiring an Appearance	2
Total Cases Authorized for a Letter of Concern	45
Total Cases Authorized for Further Follow-up or Investigation	11
Total Cases Reviewed for Compliance	0
Total Cases Authorized for Closure	71

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE B
August 24, 2022

Victor M. Muro, M.D., Chair, Chowdhury H. Ahsan, M.D., Ph.D., FACC, and Ms. Pamela J. Beal

The Committee, in its review, conducted the following business:

Total Cases Considered	112
Total Cases Authorized for Filing Formal Complaint (to be published)	5
Total Cases Authorized for Peer Review	22
Total Cases Requiring an Appearance	9
Total Cases Authorized for a Letter of Concern	18
Total Cases Authorized for Further Follow-up or Investigation	0
Total Cases Reviewed for Compliance	1
Total Cases Authorized for Closure	57

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE B
November 9, 2022

Victor M. Muro, M.D., Chair, Chowdhury H. Ahsan, M.D., Ph.D., FACC, and Ms. Pamela J. Beal

The Committee, in its review, conducted the following business:

Total Cases Considered	97
Total Cases Authorized for Filing Formal Complaint (to be published)	4
Total Cases Authorized for Peer Review	12
Total Cases Requiring an Appearance	4
Total Cases Authorized for a Letter of Concern	22
Total Cases Authorized for Further Follow-up or Investigation	1
Total Cases Reviewed for Compliance	0
Total Cases Authorized for Closure	54

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE C
November 10, 2022

Aury Nagy, M.D., Chair, Ms. Maggie Arias-Petrel, and
Nicola (Nick) M. Spirtos, M.D., F.A.C.O.G.

The Committee, in its review, conducted the following business:

Total Cases Considered	71
Total Cases Authorized for Filing Formal Complaint (to be published)	8
Total Cases Authorized for Peer Review	13
Total Cases Requiring an Appearance	0
Total Cases Authorized for a Letter of Concern	26
Total Cases Authorized for Further Follow-up or Investigation	1
Total Cases Reviewed for Compliance	0
Total Cases Authorized for Closure	23

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE A
November 18, 2022

Bret W. Frey, M.D., Chair, Col. Eric D. Wade, USAF (Ret.), and
Carl N. Williams, Jr., M.D., FACS

The Committee, in its review, conducted the following business:

Total Cases Considered	134
Total Cases Authorized for Filing Formal Complaint (to be Published)	19
Total Cases Authorized for Peer Review	26
Total Cases Requiring an Appearance	8
Total Cases Authorized for a Letter of Concern	25
Total Cases Authorized for Further Follow-up or Investigation	2
Total Cases Reviewed for Compliance	0
Total Cases Authorized for Closure	54

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE B
February 8, 2023

Victor M. Muro, M.D., Chair, Chowdhury H. Ahsan, M.D., Ph.D., FACC, and Ms. Pamela J. Beal

The Committee, in its review, conducted the following business:

Total Cases Considered	94
Total Cases Authorized for Filing Formal Complaint (to be published)	2
Total Cases Authorized for Peer Review	16
Total Cases Requiring an Appearance	4
Total Cases Authorized for a Letter of Concern	18
Total Cases Authorized for Further Follow-up or Investigation	6
Total Cases Reviewed for Compliance	0
Total Cases Authorized for Closure	48

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE C
February 9, 2023

Aury Nagy, M.D., Chair, Nicola (Nick) M. Spirtos, M.D., F.A.C.O.G., and Ms. Maggie Arias-Petrel

The Committee, in its review, conducted the following business:

Total Cases Considered	58
Total Cases Authorized for Filing Formal Complaint (to be published)	1
Total Cases Authorized for Peer Review	13
Total Cases Requiring an Appearance	3
Total Cases Authorized for a Letter of Concern	14
Total Cases Authorized for Further Follow-up or Investigation	3
Total Cases Reviewed for Compliance	0
Total Cases Authorized for Closure	24

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE A
February 17, 2023

Bret W. Frey, M.D., Chair, Col. Eric D. Wade, USAF (Ret.), and
Carl N. Williams, Jr., M.D., FACS

The Committee, in its review, conducted the following business:

Total Cases Considered	118
Total Cases Authorized for Filing Formal Complaint (to be Published)	9
Total Cases Authorized for Peer Review	18
Total Cases Requiring an Appearance	6
Total Cases Authorized for a Letter of Concern	21
Total Cases Authorized for Further Follow-up or Investigation	5
Total Cases Reviewed for Compliance	0
Total Cases Authorized for Closure	59

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

SUMMARY REPORT* OF INVESTIGATIVE COMMITTEE B
May 10, 2023

Victor M. Muro, M.D., Chair, Chowdhury H. Ahsan, M.D., Ph.D., FACC, and Ms. Pamela J. Beal

The Committee, in its review, conducted the following business:

Total Cases Considered	98
Total Cases Authorized for Filing Formal Complaint (to be published)	12
Total Cases Authorized for Peer Review	17
Total Cases Requiring an Appearance	2
Total Cases Authorized for a Letter of Concern	8
Total Cases Authorized for Further Follow-up or Investigation	0
Total Cases Reviewed for Compliance	2
Total Cases Authorized for Closure	57

*In accordance with NRS 630.311, the Board of Medical Examiners is required to publish "a summary setting forth the proceedings and determinations of the [Investigative] Committee" within 20 days of the meeting.

NRS 630.336 makes confidential those investigations not filed as a Formal Complaint.

EXHIBIT G

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **SASSAN KAVEH, M.D.,** **Respondent.**	**Case No. 23-10414-1**

FILED

MAY - 8 2023

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

COMPLAINT

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

1. Respondent was at all times relative to this Complaint a medical doctor holding an active license to practice medicine in the State of Nevada (License No. 8320). Respondent was originally licensed by the Board on July 18, 1997.

2. Respondent also, at all times relative to this Complaint, held an active Nevada Controlled Substance Registration, Certificate No. CS08877, issued by the Nevada State Board of Pharmacy (Pharmacy Board).

3. On or about August 25, 2021, Respondent was served with the First Amended Notice of Intended Action and Accusation (Accusation) by the Pharmacy Board, alleging that in 2021 Respondent violated various statutes and regulations within the Pharmacy Board's jurisdiction.

[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 Bret W. Frey, M.D., and Col. Eric D. Wade, USAF (Ret.).

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

4. In pertinent part, the Pharmacy Board Accusation alleged that Respondent prescribed Edarbyclor, a dangerous drug, to a patient, and that the patient subsequently returned the unused medication to Respondent. The Pharmacy Board Accusation further alleged that Respondent then dispensed the unused Edarbyclor to another patient, in the original container with the original label as dispensed to the first patient. The Pharmacy Board further alleged that Respondent dispensed this medication without a valid dispensing practitioner registration.

5. On or about October 15, 2021, Respondent and the Pharmacy Board entered into a "Stipulation and Order" (Pharmacy Board Stipulation), hereto attached as **Exhibit 1**, whereby Respondent did not contest the allegations in the Accusation and acknowledged that counsel for the Pharmacy Board "could present such evidence at an administrative hearing to establish a factual basis" for violations against him.

6. Respondent accepted the Pharmacy Board Stipulation "as a public reprimand regarding his duties and responsibilities as a prescribing practitioner," and agreed to pay a fine and also to reimburse the Pharmacy Board for a portion of the costs incurred in investigating and prosecuting the matter.

COUNT I

NRS 630.306(1)(b)(3) – Violation of Statutes and Regulations of the Nevada State Board of Pharmacy

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

8. Respondent is a practitioner as defined by NRS 639.0125(1), as a physician who holds a license to practice medicine in the State of Nevada.

9. NRS 630.306(1)(b)(3) provides that engaging in conduct that violates a provision of Chapter 639 of NRS, or a regulation adopted by the Pharmacy Board pursuant thereto, that is applicable to a licensee who is a practitioner, as defined in NRS 639.0125, is grounds for initiating discipline against a licensee.

10. Respondent acknowledged the evidence against him would prove violations of NRS Chapter 639 when he entered into the Pharmacy Board Stipulation. Respondent further

accepted the Pharmacy Board Stipulation "as a public reprimand regarding his duties and responsibilities as a prescribing practitioner." *See* **Exhibit 1**. Respondent thereby engaged in conduct that violated a provision of Chapter 639 of NRS, or a regulation adopted by the Pharmacy Board pursuant thereto.

11. By reason of the foregoing, Respondent is subject to discipline by the Board as provided in NRS 630.306(1)(b)(3) and 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 8th day of May, 2023.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

WILLIAM P. SHOGREN
Deputy General Counsel
9600 Gateway Drive
Reno, NV 89521
Tel: (775) 688-2559
Email: shogrenw@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

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 WASHOE)

Bret W. Frey, 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 8th day of May, 2023.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____
BRET W. FREY, M.D.
Chairman of the Investigative Committee

EXHIBIT 1

EXHIBIT 1

FILED
OCT 15 2021
NEVADA STATE BOARD OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY, **Petitioner,** **v.** **SASSAN KAVEH, MD,** **Certificate of Registration No. CS08877,** **Respondent.**	**CASE NO. 21-051-CS-N** **STIPULATION AND ORDER**

Brett Kandt, General Counsel for Petitioner the Nevada State Board of Pharmacy (Board), and Respondent Sassan Kaveh, MD, Certificate of Registration No. CS08877, by and through counsel, Keith A. Weaver, Esq. and Melanie L. Thomas, Esq., **HEREBY STIPULATE AND AGREE THAT:**

1. The Board has jurisdiction over Respondent and this matter.

2. On or about August 25, 2021, Respondent was served with the First Amended Notice of Intended Action and Accusation (Accusation) on file in this matter together with the Statement to Respondent and Notice of Hearing.

3. On or about September 24, 2021, Respondent filed an Answer and Notice of Defense to the Accusation.

4. Respondent is fully aware of the right to seek the advice of counsel in this matter and obtained the advice of counsel prior to entering into this Stipulation.

5. Respondent is aware of the right to a hearing on the matters alleged in the Accusation, the right to reconsideration, the right to appeal and any and all other rights which may be accorded to him pursuant to NRS Chapter 233B (Nevada Administrative Procedure Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).

6. Conditioned on the acceptance of this Stipulation by the Board, and with the exception of the right to challenge any determination that Respondent has failed to comply with the provisions of this Stipulation, Respondent hereby freely and voluntarily waives his rights to a hearing, reconsideration, appeal and any and all other rights related to this action that may be accorded to him by NRS Chapter 233B (Nevada Administrative Procedure Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).

7. Respondent does not contest the allegations in the Accusation, but acknowledges that Board staff prosecuting this case could present such evidence at an administrative hearing to establish a factual basis for the violations alleged in the Accusation, *to wit*, that:

A. Respondent dispensed a dangerous drug to a patient without a valid dispensing practitioner registration, in violation of NRS 453.226, NRS 453.321, NRS 453.377, NRS 453.381, NRS 454.215, NRS 454.221, NRS 454.321, NRS 454.356, NRS 639.100, NRS 639.23505 and/or NAC 639.742;

B. Respondent redispensed unused medication and thus a misbranded, mislabeled and potentially adulterated drug in violation of NRS 585.410, NRS 585.520, NRS 639.2801, NRS 639.282(1), NAC 639.601(1) and/or NAC 639.760; and

C. Respondent has performed his duties as the holder of a Nevada controlled substance registration in an incompetent, unskillful or negligent manner and engaged in unprofessional conduct as defined in NAC 639.945(1)(i) and (k), and committed an act that renders registration inconsistent with the public interest.

8. Those violations are plead with particularity in the Accusation, and are grounds for action pursuant to NRS 453.236(1), NRS 453.241(1), NRS 639.210 and NRS 639.255.

9. To resolve this matter without incurring any further costs or the expense associated with a hearing, the Board and Respondent Sassan Kaveh, MD, Certificate of Registration No. CS08877, stipulate to the following penalties:

A. Respondent shall accept this Stipulation and Order as a public reprimand regarding his duties and responsibilities as a prescribing practitioner;

B. Respondent shall pay a fine of Three Thousand Dollars ($3000.00) for the violations, payable by *cashier's check* or *certified check* or *money order* made payable to "State of Nevada, Office of the Treasurer," to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within thirty (30) days of the effective date of this Order;

C. Respondent shall pay One Thousand Five Hundred Dollars ($1500.00) to partially reimburse the Board for recoverable attorney's fees and costs incurred in investigating and prosecuting this matter, payable by *cashier's check* or *certified check* or *money order* made payable to "Nevada State Board of Pharmacy," to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within thirty (30) days of the effective date of this Order; and

D. Respondent shall comply with all federal and state statutes and regulations regarding controlled substances and dangerous drugs.

10. Any failure by Respondent to comply with the terms of this Order may result in issuance by the Executive Secretary of an order to show cause pursuant to NAC 639.965 directing that Respondent to appear before the Board at the next regularly scheduled meeting for a show cause hearing. If such a hearing results in a finding of a violation of this Order by Respondent, the Board may impose additional discipline upon Respondent consistent with the provisions of NRS Chapter 453 and/or Chapter 639.

11. General Counsel will present this Stipulation to the Board for approval pursuant to NRS 622.330 at the Board's regularly scheduled public meeting on October 13, 2021. Respondent will appear at the meeting to answer questions from the Board Members and/or Board Staff. The Board Members and Staff may discuss and deliberate regarding this Stipulation, even if Respondent is not present at the meeting.

12. The Board has discretion to accept this Stipulation, but it is not obligated to do so. If this Stipulation is approved by the Board, it shall be a public record pursuant to NRS 622.330 and shall be reported to the National Practitioner Data Bank pursuant to 42 U.S.C. § 1396r–2 and 45 CFR Part 60.

13. If the Board rejects any part or all of this Stipulation, and unless they reach an alternative agreement on the record during the hearing, the parties agree that a full hearing on the merits of this matter may be heard by the Board. The terms and admissions herein may not be used or referred to in a full hearing on the merits of this matter.

14. Subject to the approval of this Stipulation by the Board, the Board and Respondent agree to release each other from any and all additional claims arising from the facts set forth in the Accusation on file herein, whether known or unknown that might otherwise have existed on or before the effective date of this Order.

Respondent has fully considered the charges and allegations contained in the *Notice of Intended Action and Accusation* in this matter, and the terms of this Stipulation, and has freely and voluntarily agreed to the terms set forth herein, and waived certain rights, as stated herein.

AGREED:

Signed this 4 day of October, 2021

SASSAN KAVEH, MD,
Certificate of Registration No. CS08877

Signed this 5th day of October, 2021

BRETT KANDT, ESQ.
General Counsel
Nevada State Board of Pharmacy

APPROVED AS TO FORM AND CONTENT
this 5th day of October, 2021

KEITH A. WEAVER, ESQ.
MELANIE L. THOMAS, ESQ.
Counsel for Respondent

DECISION AND ORDER

The Nevada State Board of Pharmacy hereby adopts the foregoing Stipulation as its decision as to Sassan Kaveh, MD, Certificate of Registration No. CS08877, in Case No. 21-051-CS-N and hereby orders that the terms of the foregoing Stipulation be made effective upon execution below.

IT IS SO ORDERED.

Entered this 13th day of October, 2021.

Helen Park, Pharm.D.
President
Nevada State Board of Pharmacy

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 15th day of October, 2021, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Keith L. Weaver, Esq.
Melanie L. Thomas, Esq.
Lewis Brisbois Bisgaard & Smith LLP
6385 S. Rainbow Blvd., Suite 600
Las Vegas, NV 89118

KRISTOPHER MANGOSING

EXHIBIT H

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **SASSAN KAVEH, M.D.,** **Respondent.**	**Case No. 23-10414-1**

FILED
MAY 16 2023
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

ACCEPTANCE OF SERVICE

Melanie L. Thomas, Esq., counsel for, Sassan Kaveh, M.D., Respondent, hereby acknowledges that she received a filed-stamped copy of the formal **COMPLAINT** by the Investigative Committee of the Nevada State Board of Medical Examiners in this matter by electronic mail, and in doing so, accepts service of the same and specifically waives formal service of process by mail or by other means.

DATED this 16th day of May, 2023.

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: _____

MELANIE L. THOMAS, ESQ.
6385 S. Rainbow Blvd., Suite 600
Las Vegas, NV 89118
Tel: (702) 893-3383
Email: Melanie.Thomas@lewisbrisbois.com
Attorney for Respondent

EXHIBIT I

LEWIS BRISBOIS BISGAARD & SMITH LLP
MELANIE L. THOMAS
Nevada Bar No. 12576
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
Telephone: 702.893.3383
Facsimile: 702.893.3789
Melanie.Thomas@lewisbrisbois.com
Attorneys for Sassan Kaveh, M.D.

FILED
JUN 22 2023
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: SASSAN KAVEH, M.D., Respondent.	CASE NO. 23-10414-1 **ANSWER**

SASSAN KAVEH, M.D. ("Dr. Kaveh"), by and through his counsel LEWIS BRISBOIS BISGAARD & SMITH, LLP hereby submits his Answer to the Board's Complaint filed May 8, 2023.

ANSWER

1. Respondent admits the allegations in Paragraph 1.

2. Respondent admits the allegations in Paragraph 2.

3. Respondent admits the allegations in Paragraph 3.

4. Answering Paragraph 4, Respondent admits generally this summary of the Pharmacy Board Accusation, noting that the Edarbyclor was sealed and unused.

5. Answering Paragraph 5, Respondent admits that he entered into a Stipulation and Order with the Pharmacy Board on or about October 15, 2021, upon the advice of his counsel.

6. Answering Paragraph 6, Respondent admits that he entered into a Stipulation and Order with the Pharmacy Board on or about October 15, 2021, upon the advice of his counsel.

COUNT I

NRS 630.306(1)(b)(3) - Violation of Statutes and Regulations of the Nevada State Board of Pharmacy

7. Answering Paragraph 7, Respondent repeats and realleges all of the above paragraphs as if fully set forth herein.

8. Paragraph 8 calls for a for a legal conclusion, for which no response is required. Respondent admits that he is a Physician who holds a license to practice medicine in the State of Nevada.

9. Paragraph 9 calls for a for a legal conclusion, for which no response is required. Respondent denies that discipline is appropriate in this setting.

10. Paragraph 10 calls for a for a legal conclusion, for which no response is required. Respondent denies the remainder of the allegations in Paragraph 10.

11. Paragraph 11 calls for a for a legal conclusion, for which no response is required. Respondent denies the allegations contained in Paragraph 11.

FIRST AFFIRMATIVE DEFENSE

The Board's Complaint fails to state a claim on which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

The Board's Complaint, and each cause of action therein, is barred by the doctrine of laches, estoppel, and the doctrine of unclean hands.

THIRD AFFIRMATIVE DEFENSE

Respondent denies each and every allegation of the Board's Complaint not specifically admitted or otherwise pled to herein.

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WHEREFORE, Respondent prays for judgment as follows:

1. That all charges against him be dismissed;

2. For such other and further relief as may be deemed just and proper in these premises.

June 20, 2023

LEWIS BRISBOIS BISGAARD & SMITH LLP

By /s/ Melanie L. Thomas

MELANIE L. THOMAS
Nevada Bar No. 12576
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
Melanie.Thomas@lewisbrisbois.com
Attorneys for Sassan Kaveh, M.D.

EXHIBIT J

LEWIS BRISBOIS

LEWIS BRISBOIS BISGAARD & SMITH LLP

Keith A. Weaver
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
Keith.Weaver@lewisbrisbois.com
Direct: 702.693.4337

Melanie L. Thomas
Melanie.Thomas@lewisbrisbois.com
Direct: 702.693.1718

November 10, 2021

File No. 27428-524

VIA U.S. MAIL AND EMAIL

Nevada Board of Medical Examiners
9600 Gateway Drive
Reno, NV 89521
Email: nsbme@medboard.nv.gov

Re: Nevada State Board of Pharmacy v. Sassan Kaveh, M.D.
Case No. 21-051-CS-N

To Whom it May Concern:

Please be advised that this office represented Dr. Kaveh with regard to the above-reference matter before the Nevada State Board of Pharmacy. Dr. Kaveh entered into a stipulation with the Board, wherein he accepted a public reprimand on October 13, 2021.

The matter related to a misunderstanding regarding the distinction between providing sample medications to a patient and dispensing, or furnishing, medications without a separate dispensing license from the Board. The medication at issue was not an opiate or controlled substance, but rather a sealed, unexpired anti-hypertensive medication meant to temporarily fill the gap for his patient's coverage to prevent hypertensive crisis. The unused medication bottle was donated by another patient of Dr. Kaveh who no longer needed the treatment. The patient donated the expensive medication hoping it could help someone else. The medication was provided to a different patient, in good faith and at no charge.

Dr. Kaveh believed he was providing the unused medication as a sample. He was unaware that this act could be construed by the Nevada State Board of Pharmacy as re-dispensing the medication without a dispensing license. Dr. Kaveh does not maintain a stock pharmacy in his practice, and does not dispense drugs to patients. When applicable, he would provide samples and/or write prescriptions using his prescribing license.

In addition, the patient that was provided the anti-hypertensive medication did not have any complaints regarding Dr. Kaveh and was not in any way harmed. In fact, she was very grateful to

Dr. Kaveh for providing her this medication while waiting for her own, separate prescription for this same medication to arrive.

In order to avoid incurring any further costs or expenses for the board associated with the hearing, Dr. Kavey agreed to enter into this stipulation with the Nevada State Board of Pharmacy. He has already complied with all terms of the agreement. Furthermore, Dr. Kaveh has taken such matters very seriously and plans to work together with the Pharmacy Board on clarifying some of these confusing and ambiguous statutes to educate the medical community.

While our reading of NRS 630.306 does not require this reporting, we wanted to reach out on Dr. Kaveh's behalf out of an abundance of caution. Please advise if you will require any additional information.

Very truly yours,

/s/ Melanie L. Thomas

Keith A. Weaver of
Melanie L. Thomas for
LEWIS BRISBOIS BISGAARD & SMITH LLP

KAW:MLT

EXHIBIT K

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **SASSAN KAVEH, M.D.** **Respondent.**	**Case No. 23-10414-1**

FILED

SEP 08 2023

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

ERRATA TO COMPLAINT

The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board), by and through William P. Shogren, Deputy General Counsel and attorney for the IC hereby submit this Errata to its Complaint in Case No. 23-10414-1, filed May 8, 2023, and should be appended thereto. An inadvertent clerical error was discovered on page 1, footnote 1, and should read as follows in its entirety:

> "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 Bret W. Frey, M.D., Chair, Chowdhury H. Ahsan, M.D., Ph.D., FACC, and Col. Eric D. Wade, USAF (Ret.)."

DATED this 8th day of September, 2023.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

WILLIAM P. SHOGREN
Deputy General Counsel
9600 Gateway Drive
Reno, NV 89521
Tel: (775) 688-2559
Email: shorgrenw@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

EXHIBIT X

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against

SASSAN KAVEH, M.D.,

Respondent.

Case No. 23-10414-1

FILED
SEP 27 2024
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

TO: William P. Shogren
Deputy General Counsel
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, Nevada 89521

Sassan Kaveh, M.D.
c/o Melanie L. Thomas, Esq.
Lewis Brisbois Bisgaard & Smith, LLP
6385 S. Rainbow Blvd., Ste 600
Las Vegas, NV 89118

FINDINGS AND RECOMMENDATION

This matter came for hearing on August 29, 2024. Participating in the hearing were William P. Shogren on behalf of the Investigative Committee of the Nevada State Board of Medical Examiners (the "IC"); Melanie Thomas, Esq. on behalf of Sassan Kaveh, M.D. ("Respondent"), and Respondent. IC witnesses called to testify were Ernesto Diaz, the IC Chief of Investigations, and Respondent. Respondent also testified on his own behalf. All witnesses were sworn. The rule of exclusion was invoked by Respondent.

The Complaint alleges a single count of violation of NRS 630.306(1)(b)(3), *Violation of Statutes and Regulations of the Nevada State Board of Pharmacy*. The charge is premised upon Respondent having entered into a Stipulation and Order with the Nevada State Board of Pharmacy (the "Pharmacy Board"), filed on October 15, 2021, by which Respondent stipulated that he violated specified Nevada statutes, inclusive of NRS Chapter 639, and/or Nevada administrative

code provisions by dispensing a dangerous drug to a patient without a valid dispensing practitioner registration; that Respondent redispersed unused medication and thus a misbranded, mislabeled, and potentially adulterated drug; and that Respondent did so as the holder of a Nevada controlled substance registration in an incompetent, unskillful, or negligent manner, engaged in unprofessional conduct, and committed an act that renders registration inconsistent with the public interest. *See* IC Exhibit 5 (the "Stipulation"). As part of the Stipulation, Respondent accepted a public reprimand by the Pharmacy Board, was to pay a fine, was to reimburse the Pharmacy Board for fees and costs, and was ordered to comply with all federal and state statutes and regulations regarding controlled substances and dangerous drugs. Id.

Prior to the hearing, Respondent, through motion practice, took issue with the procedural manner by which the charge against him was initiated and pursued. Written rulings as to the same were undertaken by a prior hearing officer who denied relief based thereon. As such, the hearing was limited to the merits of the charge, although Respondent addressed the underlying motion arguments in opening statement; to a limited extent, due to being restricted by the undersigned, through questioning; and in closing.

With respect to the scope of the hearing, the merits of the underlying charge were unequivocally established and never directly challenged. In particular, NRS 630.306(1)(b)(3) provides that engaging in any conduct that is a violation of NRS Chapter 639 or a regulation adopted by the State Board of Pharmacy pursuant thereto, which is applicable to a licensee who is a practitioner as defined in NRS 639.0125, constitute grounds for initiating disciplinary action or denying licensure. Based upon being deemed a practitioner as defined by NRS 639.0125, which was never disputed, and having violated a provision (or provisions) of NRS Chapter 639 as stipulated to by Respondent before the Pharmacy Board, Respondent is, in turn, in violation of NRS 630.306(1)(b)(3) as alleged.

As and for a recommendation for discipline, given Respondent's violation rests initially with the Pharmacy Board and the current violation is a direct result thereof with no additional or separately alleged violation beyond that already addressed by the Pharmacy Board; in light of the Pharmacy Board having already disciplined Respondent for the violation underlying the charge; in

consideration of Respondent's self-reporting by and through correspondence from Respondent's counsel, dated November 10, 2021 (*see* IC Exhibit 4);[1] and in consideration of efforts by Respondent to address the violation, which Respondent testified includes having undertaken continuing medical education "in relation to the investigation" of the charge (*see* Hearing Transcript, p. 97, lines 19-22), undersigned respectfully submits that Respondent's discipline should be reflective of the discipline imposed by the Pharmacy Board absent imposition of a fine, which would be unnecessarily duplicative, that being administration of a public reprimand; a requirement that Respondent pay all costs incurred by the Board relating to its disciplinary proceedings; and that Respondent be mandated to comply with all federal and state statutes and regulations regarding controlled substances and dangerous drugs.

RESPECTFULLY SUBMITTED this 26th day of September 2024.

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

[1] Whether or not the self-reporting led to the IC charge or it came to fruition by other means was a topic of limited inquiry at the hearing but goes to the underlying motion arguments, which had been denied.

EXHIBIT Y

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

THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against: **SASSAN KAVEH, M.D.,** **Respondent.**	**Case No. 23-10414-1**

FILED
DEC 13 2024
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

INVESTIGATIVE COMMITTEE'S MEMORANDUM OF COSTS AND DISBURSEMENTS AND ATTORNEYS' FEES

Pursuant to NRS 622.400, the Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board) requests an award of the following costs, disbursements and attorney's fees. The itemization of attorney's fees incurred in this matter is attached hereto as **Exhibit 1**, along with copies of costs and disbursements:

Attorney Fees	$ 2,418.21
Legal Assistant Fees	$ 668.61
Investigative Fees	$ 177.50
Hearing Officer Fees	$ 4,277.50
Court Reporter Fees (transcripts)	$ 1,850.00
Photocopy Fees	$ 100.00
Postage	$ 117.74
Fingerprinting	$ 40.25
TOTAL COSTS AND DISBURSEMENTS	**$9,649.81**

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

AFFIDAVIT OF WILLIAM P. SHOGREN, DEPUTY GENERAL COUNSEL IN SUPPORT OF MEMORANDUM OF COSTS, DISBURSEMENTS AND ATTORNEY'S FEES

STATE OF NEVADA)
) ss.
COUNTY OF WASHOE)

I, William P. Shogren, Deputy General Counsel, being first duly sworn, declare under penalty of perjury under the laws of the State of Nevada that the following assertions are true to the best of my knowledge and belief:

1. I am a duly licensed attorney, authorized to practice law in the State of Nevada, and I represent the Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board) in this matter.

2. I currently serve as Deputy General Counsel for the Board, and have served as counsel for the Board since February 2023. I have actively litigated cases in Nevada District courts as well as Federal District Court.

3. I am familiar with the fees and costs actually incurred in prosecuting this type of action. The itemized fees and costs reflected in the list attached hereto are correct, reasonable and actually incurred.

4. The Board has incurred investigative and legal fees[1] in the amount of three thousand two hundred and sixty-four dollars and thirty-two cents ($3,264.32), and paid Hearing Officer fees in the amount of four thousand two hundred seventy-seven dollars and fifty cents ($4,277.50) whose services were necessary and reasonable to bring this action in front of the Board for decision. *See* **Exhibit 2. The total FEES incurred in this case by the Board are seven thousand five hundred forty-one dollars and eighty-two cents ($7,541.82).**

5. The Board has also advanced costs including postage, copies, shipping and fingerprinting in the amount of two hundred fifty-seven dollars and ninety-nine cents ($257.99). Additionally, the Board has paid for Court Reporter fees and transcript costs in the amount of one thousand eight hundred fifty dollars ($1,850). *See* **Exhibit 3. The total COSTS incurred in this**

[1] The hourly rates for Board attorneys and for staff are below what is reasonable and customary within the community for civil litigation attorneys and staff and have been calculated at the lower rates.

case by the Board is two thousand one hundred seven dollars and ninety-nine cents ($2,107.99). These fees, costs and services were necessary to the prosecution of this action and are reasonable in light of the complexity of the disciplinary process. The costs and disbursements listed herein are correct and were necessarily incurred in this action.

6. The entirety of fees and costs incurred by the Board is nine thousand six hundred forty-nine dollars and eighty-one cents ($9,649.81).

Further your affiant sayeth naught.

DATED this 31st day of October, 2024.

By: _____
WILLIAM P. SHOGREN
Deputy General Counsel
Nevada State Board of Medical Examiners

SUBSCRIBED and SWORN to before me this
31st day of October, 2024 by William P. Shogren.

_____
NOTARY PUBLIC

MARGARET F BYRD
Notary Public
State of Nevada
Appt. No. 10-3277-2
My Appt. Expires Sep. 3, 2026

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

EXHIBIT 1

EXHIBIT 1

SASSAN KAVEH, M.D., CASE NO. 23-10414-1

ITEMIZATION OF HOURS

William P. Shogren, Deputy General Counsel

Deonne E. Contine, General Counsel

Date	Name/ Initials	Description	Time Spent
5/1/2023	WPS	Reviewed file	1.00
5/5/2023	WPS	Reviewed file, drafted complaint, emailed potential opposing counsel	2.00
6/7/2023	WPS	Reviewed file, email to opposing counsel	0.25
6/20/2023	WPS	Phone call with opposing counsel re: settlement, researched issues regarding reporting to National Databank	0.50
7/21/2023	WPS	Reviewed file, phone call with opposing counsel re: settlement	0.50
7/21/2023	WPS	Attended early case conference, reviewed file	0.50
7/24/2023	WPS	Drafted settlement agreement	0.50
7/25/2023	WPS	Reviewed file, researched issues about reporting to National Databank	0.50
8/2/2023	WPS	Reviewed file, email to opposing counsel, researched issues about reporting to National Databank	0.50
8/7/2023	WPS	Reviewed file, email to opposing counsel re: issues about reporting	0.25
9/5/2023	WPS	Reviewed and drafted prehearing statement for filing and prepared exhibits	0.50
9/6/2023	WPS	Reviewed file, reviewed Respondent's motion to dismiss, worked on opposition to motion	3.00
9/7/2023	WPS	Reviewed file, worked on opposition to motion to dismiss	2.00
9/11/2023	WPS	Reviewed Respondent's prehearing statement, researched relevant case law	1.00
9/11/2023	WPS	Reviewed file, attended prehearing conference	1.00
9/11/2023	WPS	Reviewed file, worked on opposition to motion to dismiss	1.00
9/11/2023	WPS	Worked on motion in limine to exclude Respondent's witnesses	1.00
9/18/2023	WPS	Revised and finished drafting motion in limine	2.00

9/18/2023	DEC	Review & revise motion in limine; meeting re same.	1.00
9/19/2023	WPS	Revised and finished drafting opposition to motion to dismiss	1.00
9/19/2023	DEC	Review opposition to motion to dismiss	0.50
9/27/2023	WPS	Reviewed Respondent's opposition to motion in limine, conducted research	0.50
9/29/2023	WPS	Emails to Hearing Officer and Opposing Counsel re: Opposing Counsel's request for oral arguments	0.50
10/2/2023	WPS	Reviewed file, drafted reply in support of motion in limine	2.00
4/11/2024	WPS	Review file, attended telephonic status conference	0.50
8/9/2024	WPS	Review file, prepared for upcoming hearing	1.00
8/22/2024	WPS	Reviewed file, discussed case with deputy general counsel, prepared for upcoming hearing	7.00
8/28/2024	WPS	Reviewed file, prepared for hearing	2.00
8/29/2024	WPS	Attended formal hearing	3.00

EXHIBIT 2

EXHIBIT 2

Nancy Moss Ghusn, Esq.

675 W. Moana Lane Ste. 107
Reno, Nevada 89509
(775)772-5644

nmg416@gmail.com

11/8/23 MG AWPS 11/8/23

November 7, 2023

Mercedes Fuentes, Legal Assistant

Donya Jenkins, Finance Manager

Nevada State Board of Medical Examiners

RE: In the Matter of Sassan Kaveh, M.D., Case No. 23-10414-1

INVOICE FOR HEARING OFFICER SERVICES-June-Oct 2023

DATE	*DESCRIPTION*	*HOURS*
6/28/23	Review email of appt; review pleadings/docs;emails re: Scheduling of ECC	0.5
6/29	Emails x 4 re:scheduling of ECC	.25
7/10	Email x 6 re:status, scheduling	.5
7/20	Same x 3	.25
7/21	Emails re:status/sched x 7; schedule/send *Zoom* for ECC	.5
7/24	Emails x4 re: request for time spent	.25
	Calculate time spent to date	n/c
8/8	ECC 1:15-1:30 + emails re:same; draft & send prehearing conf Order; schedule & send *Zoom* PH conf link	1.0
8/10	Receive & review finalized PH conf order	n/c
9/8	R&R NSBME's Errata to Complaint; R&R Resp's email + Mtn/Dismiss	1.0
9/11	R&R Resp's PH conf stmt & prep for PH conf	.5
	PH conf 1:15-1:36; emails x 2	.75
		5.5

9/18	Receive & quick review of IC's Mtn/Limine	.25
9/13,19	Emails x5 re:hearing dates	.5
9/21,25,26	9/21 emails x 2; receive Resp's Reply in Support of Mtn/Dismiss; Receive Resp's Oppo to IC's MIL; emails	1.0
9/27	Emails x2;	.25
9/28	Review of emails x 3 + cited law;	.5
9/29	Email re:oral arg & review of cited law	.25
9/30	Review of emails/arguments, law, draft Order Denying Resp's Mtn/oral arg	1.0
10/2	emails	n/c
	R&R IC's Reply in support of MIL	.5
10/2-3	Draft email denying R's Mtn/Dismiss; emails re:same & Response/explanation to Qs re:hearing process	.75
10/5	?	n/c
10/11,12	Emails w/counsel x 6 re:orders, changing hrg dates, location of hrg	.75
10/11-13	Draft & send order denying Mtn/Dismiss	1.25
10/2-17	Review MIL briefing; draft & send order	2.5
10/17-19	Emails x 4 re:dates for rescheduled hrg	.25
11/7	emails re: billing + generate invoice	n/c
		9.75

June-Oct 2023 Total Amount Due 15.25hrs x $150/hr = **$2287.50 due**

Thank You—*Nancy Moss Ghusn, Esq.*

Nancy Moss Ghusn, Esq.

675 W. Moana Lane Ste. 107
Reno, Nevada 89509
(775)772-5644

MF 1/19/24
WS 1/19/24

nmg416@gmail.com

January 17, 2024

Mercedes Fuentes, Legal Assistant

Donya Jenkins, Finance Manager

Nevada State Board of Medical Examiners

RE: In the Matter of Sassan Kaveh, M.D., Case No. 23-10414-1

INVOICE FOR HEARING OFFICER SERVICES-Nov-Dec 2023

DATE	*DESCRIPTION*	*HOURS*
11/28	Draft/send Amended Scheduling Order	.25
12/5	Review emails from Resp's counsel	.25
12/6	R&R emails x 5 from counsel	.75
12/7	Emails x 2 re:recording of Board mtg	.25
12/11	Email exchanged x 6 re: briefing/continuance	.5
12/14,16	Draft & send order continuing hrg	.5
12/20,21 12/22,27,28	Emails x 7 re:exhibits	.25

Total Hours: 2.75

Nov. 28-Dec. 31, 2023 2.75hrs x $200/hr = **$550.00 Total** Due

Thank You—*Nancy Moss Ghusn, Esq.*

9/27/24

INVOICE 9/27/24 W.

Invoice # 9597
Date: 09/27/2024
Due On: 10/12/2024

Halstead Law Offices

615 Arlington Avenue
Reno, NV 89509

Sassan Kaveh, MD

01051-Kaveh, MD

Sassan Kaveh, MD: Medical Board Complaint Case No 23-10414-1

Type	Date	Description	Quantity	Rate	Total
Service	03/27/2024	Receipt of file from Med Bd.; reviewed same; call to Mercedes to confirm status and procedure; Mercedes to coordinate a time for a status conference in light of my availability	0.40	$200.00	$80.00
Service	03/28/2024	Email follow up with M. Fuentes to see about possible responses to proposed ECC dates and times	0.10	$200.00	$20.00
Service	03/29/2024	Emails with M. Fuentes re lack of response to request for status conference date; drafted status hearing order and calendared date; sent to Med. Bd for filing and service; further review of file	0.90	$200.00	$180.00
Service	04/11/2024	Prepared for and participated in status hearing to set evidentiary hearing	0.30	$200.00	$60.00
Service	04/15/2024	Drafted order scheduling evidentiary hearing and sent to Med. Bd for filing and service; calendared same	0.20	$200.00	$40.00
Service	05/13/2024	Emails re Respondent's counsel's unavailability for scheduled hearing date b/c of trial schedule	0.10	$200.00	$20.00
Service	05/15/2024	Emails re Ms. Thomas needing to move the evidentiary hrg and proposed dates and conference call; arranged conference call; established continued hearing date; drafted order continuing hearing and sent to Med. Bd for filing and service	0.60	$200.00	$120.00
Service	08/26/2024	Receipt of notice of firm change from Melanie Thomas; email to parties confirming this week's hearing	0.10	$200.00	$20.00
Service	08/28/2024	Went through emails to confirm I had all information provided to date in file in preparation for hrg; reviewed record in preparation for hearing; pulled legal authority relevant to arguments raised in the record	1.40	$200.00	$280.00

Service	09/26/2024	Read hearing transcript and drafted findings and recommendation	2.60	$200.00	$520.00
Service	09/27/2024	Edited and finalized Findings and Recommendation; sent to Med. Bd for filing and service with final invoice	0.50	$200.00	$100.00
				Total	**$1,440.00**

Statement of Account

Outstanding Balance		New Charges		Amount in Trust		Payments Received		**Total Amount Outstanding**
($0.00	+	$1,440.00	) - (	$0.00	+	$0.00	) =	**$1,440.00**

Please make all amounts payable to: Halstead Law Offices

Please pay within 15 days. 1.0% simple annual interest will be charged every 30 days.

EXHIBIT 3

EXHIBIT 3

9/16/24 ws
9/16/24 MR

Veritext, LLC - Mountain Region

Tel. 702-314-7200 Email: Calendar-NV@veritext.com
Fed. Tax ID: 20-3132569
License Number: 053F

VERITEXT LEGAL SOLUTIONS

Bill To: William P. Shogren
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, NV, 89521

Invoice #:	**7699862**
Invoice Date:	**9/9/2024**
Balance Due:	**$1,850.45**

Case: Nevada State Board Of Medical Examiners v. Sassan Kaveh, M.D. — **Proceeding Type: Hearing**

Job #: 6655967 | Job Date: 8/29/2024 | Delivery: Normal

Location: Reno, NV

Billing Atty: William P. Shogren

Scheduling Atty: William P. Shogren | Nevada State Board of Medical Examiners

Witness: Transcript of Hearing Proceedings	**Amount**
Transcript Services	$1,850.45

Notes:
Case No. 23-10414-1

Invoice Total:	**$1,850.45**
Payment:	**$0.00**
Credit:	**$0.00**
Interest:	**$0.00**
Balance Due:	**$1,850.45**

TERMS: Payable upon receipt. Accounts 30 days past due will bear a finance charge of 1.5% per month. Accounts unpaid after 90 days agree to pay all collection costs, including reasonable attorney's fees. Contact us to correct payment errors. No adjustments will be made after 90 days. For more information on charges related to our services please consult http://www.veritext.com/services/all-services/services-information

Remit to:
Veritext
P.O. Box 71303
Chicago IL 60694-1303
Fed. Tax ID: 20-3132569

Pay By ACH (Include invoice numbers):
A/C Name: Veritext
Bank Name:BMO Harris Bank
Account No:4353454 **ABA:**071000288
Swift: HATRUS44

Pay by Credit Card: www.veritext.com

Invoice #: 7699862
Invoice Date: 9/9/2024
Balance Due: $1,850.45

B420240914

258718

SASSAN KAVEH, M.D., CASE NO. 23-10414-1

ITEMIZATION OF POSTAGE

Date	Document	Service	Recipient	Cost
6/1/2023	Fingerprinting Packet	Certified Mail	Melanie Thomas	$ 7.99
9/5/2023	IC's Prehearing Statement and Exhibits	FedEx	Melanie Thomas	$ 14.47
9/5/2023	IC's Prehearing Statement and Exhibits	Regular Mail	Nancy Ghusn	$ 2.55
9/18/2023	IC's Motion in Limine	Certified Mail	Melanie Thomas	$ 8.14
9/18/2023	IC's Motion in Limine	Regular Mail	Nancy Ghusn	$ 1.59
9/19/2023	IC's Opposition to Respondent's Motion	Certified Mail	Melanie Thomas	$ 7.66
9/19/2023	IC's Opposition to Respondent's Motion	Regular Mail	Nancy Ghusn	$ 1.11
10/2/2023	Order Denying Request for Hearing on Motions	Certified Mail	Melanie Thomas	$ 7.42
10/2/2023	Order Denying Request for Hearing on Motions	Regular Mail	Nancy Ghusn	$ 0.87
12/20/2023	Order Staying Hearing	Certified Mail	Melanie Thomas	$ 7.18
3/21/2024	Docket and Exhibits	FedEx	Patricia Halstead	$ 7.32
4/4/2024	Order for Status Conference	Certified Mail	Melanie Thomas	$ 7.36
4/16/2024	Order Setting Hearing	Certified Mail	Melanie Thomas	$ 7.36
5/16/2024	Order continuing Hearing	Certified Mail	Melanie Thomas	$ 7.36
8/26/2024	Hearing Exhibits to Las Vegas Office	FedEx	Malia Kaeo	$ 16.98
9/30/2024	Letter, Findings and Recommendations, and Hearing Transcript	Certified Mail	Melanie Thomas	$ 12.38

TOTAL AMOUNT: $117.74

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

CERTIFIED MAIL™

9171 9690 0935 0255 6999 02

quadient
FIRST-CLASS MAIL
IMI
$007.99
06/01/2023 ZIP 89521
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NEVADA STATE BOARD
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9600 GATEWAY DRIVE
RENO, NEVADA 89521

TO

MELANIE THOMAS, ESQ.
Lewis Brisbois Bisgaard & Smith
6385 S Rainbow Blvd., Suite 600
Las Vegas, NV 89118

FIRST CLASS MAIL

ELECTRONIC RETURN
RECEIPT REQUESTED

Transaction Record

FedEx

TRACKING NO.:	SHIP DATE:	ESTIMATED SHIPPING CHARGES:
773312281495	Sep 5, 2023	14.47 USD

From address

Mercedes Fuentes
Nevada State Board of Med Exam
9600 Gateway Drive
89502 NV Reno
US
Phone: 775-324-9380
fuentesm@medboard.nv.gov

To address

Melanie L. Thomas, Esq.
Lewis Brisbois Bisgaard & Smith
6385 S. Rainbow Blvd., Suite 600
89118 NV LAS VEGAS
US
Phone: 702-893-1718

Package information

Pieces	Weight	Dimensions (LxWxH)	Declared value	Package options
1 x	1.00 lb			n/a

Package type:
FedEx Envelope

Service:
FedEx 2Day

Pickup / drop off type:
Drop off package at a FedEx location

Special Services:
Adult signature required

Billing information

Bill transportation cost to: ******680
Bill duties, taxes and fees to:
Your reference:

P.O. No.:
Invoice No.:
Department No.:

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Reno, NV 89509

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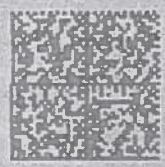
NEVADA STATE BOARD
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RENO, NEVADA 89521

TO SASSAN KAVEH, M.D.
c/o Melanie L. Thomas, Esq.
Lewis Brisbois Bisgaard & Smith, LLP
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Las Vegas, NV 89118

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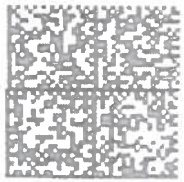
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c/o Melanie L. Thomas, Esq.
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6385 S. Rainbow Blvd., Suite 600
Las Vegas, NV 89118

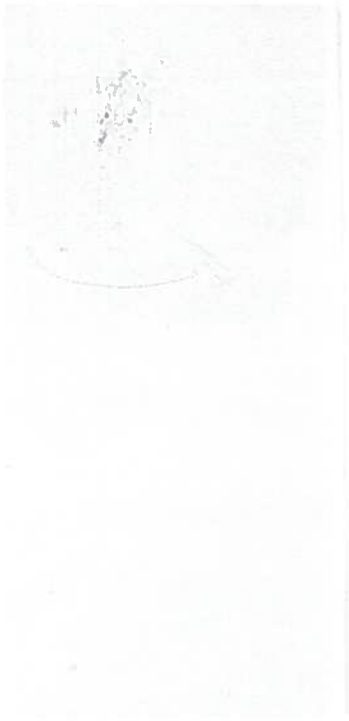
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NEVADA STATE BOARD
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Reno, Nevada 89521

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675 W. Moana Ln., Ste. 107
Reno, NV 89509



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Sassan Kaveh, M.D.
c/o Melanie Thomas, Esq.
6385 South Rainbow Blvd., #600
Las Vegas, NV 89118

Transaction Record

FedEx

TRACKING NO.:	SHIP DATE:	ESTIMATED SHIPPING CHARGES:
775638591716	Mar 21, 2024	7.32 USD

From address

Mercedes Fuentes
Nevada State Board of Med Exam
9600 Gateway Drive
89502 NV Reno
US
Phone: 7753249380
fuentesm@medboard.nv.gov

To address

Patricia Halstead, Esq.
615 S. Arlington Ave.
89509 NV RENO
US
Phone: 7753222244

Package information

Pieces	Weight	Dimensions (LxWxH)	Carriage value	Package options
1 x	2.50 lb			n/a

Packaging type:
FedEx Pak

Service:
FedEx 2Day

Pickup / drop-off type:
I'll drop off my shipment at a FedEx location

Billing information

Bill transportation cost to: ******680
Bill duties, taxes and fees to:
Your reference:

P.O. No.:
Invoice No.:
Department No.:

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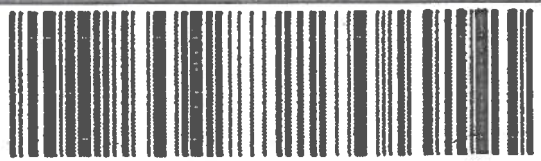
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c/o Melanie Thomas, Esq.
Lewis Brisbois Bisgaard & Smith, LLP
6385 S. Rainbow Blvd., Ste. 600
Las Vegas, NV 89118

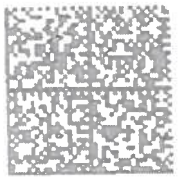
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04/16/2024 ZIP 89521
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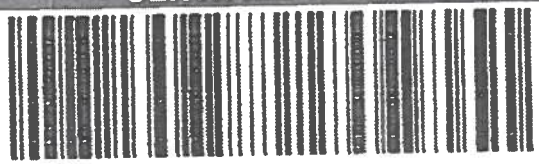
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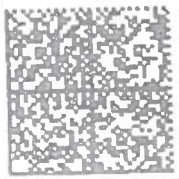
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c/o Melanie Thomas, Esq.
Lewis Brisbois Bisgaard & Smith, LLP
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Las Vegas, NV 89118

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c/o Melanie Thomas, Esq.
Lewis, Brisbois, Bisgaard & Smith, LLP
6385 S. Rainbow Blvd., Ste. 600
Las Vegas, NV 89118

Transaction Record

FedEx

TRACKING NO.:	SHIP DATE:	ESTIMATED SHIPPING CHARGES:
778195902772	Aug 26, 2024	16.98 USD

From address

Mercedes Fuentes
Nevada State Board of Med Exam
9600 Gateway Drive
89502 NV Reno
US
Phone: 7753249380
fuentesm@medboard.nv.gov

To address

Malia Kaleo
Nevada State Board of Med Examiners
325 E. Warm Springs Road, Suite 225
89119 NV LAS VEGAS
US
Phone: 7024863339

Package information

Pieces	Weight	Dimensions (LxWxH)	Carriage value	Package options
1 x	2.00 lb			n/a

Packaging type:
FedEx UK Pak

Service:
FedEx Priority Overnight

Pickup / drop-off type:
I'll drop off my shipment at a FedEx location

Billing information

Bill transportation cost to: ******680
Bill duties, taxes and fees to:
Your reference:

P.O. No.:
Invoice No.:
Department No.:

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EXHIBIT Z

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: **SASSAN KAVEH, M.D.,** **Respondent.**	**Case No. 23-10414-1**

FILED
DEC 2[illegible] 2024
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

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 13, 2024, at 8:25 a.m. (Pacific Standard Time), located at 325 E. Warm Springs Road, Suite 225, Las Vegas, NV 89119, video conferenced to 9600 Gateway Drive, Reno, NV 89521. Sassan Kaveh, M.D., (Respondent) was properly served with a notice of the adjudication, including the date, time, and location. Respondent was present with his attorney, Melanie L. Thomas, Esq. The adjudicating members of the Board participating in these Findings of Fact, Conclusions of Law and Order were: Nick M. Spirtos, M.D., F.A.C.O.G., Ms. Maggie Arias-Petrel, Ms. Pamela J. Beal, Carl N. Williams, Jr., M.D., FACS, Irwin B. Simon, M.D., FACS, Joseph Olivarez, P.A.-C, and Jason B. Farnsworth, RRT, MBA. Matthew P. Feeley, Esq., Deputy Attorney General, served as legal counsel to the Board.

The Board, having received and read the formal 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.

[1] The Hearing Officer's Findings and Recommendations were prepared by Patrcia 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 on July 18, 1997.

II.

On May 8, 2023, the Investigative Committee filed a formal Complaint in Case No. 23-10414-1, alleging one (1) violation of the Medical Practice Act that constitutes grounds for initiating disciplinary action against a licensee, as follows: one (1) count of NRS 630.306(1)(b)(3), Violation of Statutes and Regulations of the Nevada State Board of Pharmacy. The Complaint was served upon Respondent's counsel on May 16, 2023. Respondent filed an Answer to the allegations set forth in the Complaint on June 22, 2023.

III.

On August 8, 2023, at 1:15 p.m., Hearing Officer Nancy Moss Ghusn, Esq., conducted a telephonic Early Case Conference by Zoom in this matter. William P. Shogren, Deputy General Counsel, (Mr. Shogren) was present on behalf of the Investigative Committee (IC) and Melanie L. Thomas, Esq. appeared on behalf of Respondent. At the scheduled Early Case Conference, Hearing Officer Ghusn set the date for the Prehearing Conference, the deadline for the parties to exchange lists of witnesses and documents, and the date for the Hearing.

On August 10, 2023, in compliance with NAC 630.465, a Scheduling Order setting the Prehearing Conference and Hearing was filed. Pursuant to that Order, the Prehearing Conference was set for September 11, 2023, at 1:15 p.m. The Scheduling Order was sent to Respondent's counsel by email on August 10, 2023.

The IC's Prehearing Conference Statement, along with exhibits intended to be presented at the Hearing, was sent to Respondent's counsel via Fed Ex 2-Day Mail and was served on September 6, 2023.

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Nevada State Board of Medical Examiners
9600 Gateway Drive
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(775) 688-2559

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The Prehearing Conference was held telephonically as noticed and ordered, at which time, legal counsel for the IC, Mr. Shogren, appeared and Ms. Thomas appeared on behalf of Respondent.

A request for a continuance by Respondent's counsel was granted and an Amended Scheduling Order was filed November 29, 2023, moving the Hearing to December 15, 2023, at 9:00 a.m. The Amended Scheduling Order was sent to Respondent's counsel via email on November 30, 2023.

On December 18, 2023, an Order Granting Respondent's Request to Stay Hearing was issued and filed by the Hearing Officer and was served by certified mail and email upon Respondent's counsel.

On March 19, 2024, Patricia Halstead, Esq. was appointed as hearing officer to oversee the matter, as the prior Hearing Officer no longer served as a Hearing Officer for the Board.

On April 15, 2024, an Order Scheduling Evidentiary Hearing was issued setting the formal hearing date for June 13 and 14, 2024 starting at 8:30 a.m. each day, and was served by certified mail and email upon Respondent's counsel on April 15, 2024.

On May 15, 2024, an Order Continuing Scheduling Evidentiary Hearing was issued and filed, moving the formal hearing date to August 29 and 30, 2024, starting at 8:30 a.m. each day, and was served by certified mail and email upon Respondent's counsel on May 16, 2024.

IV.

On August 29, 2024, as duly noticed and ordered, a contested case hearing was held before the Hearing Officer to receive evidence and to hear arguments of both parties. Legal counsel for the IC, Mr. Shogren, appeared and Ms. Thomas and Respondent also appeared.

The Hearing Officer received the complete record of proceedings, including the transcript of the testimony received and the exhibits admitted. The Hearing Officer issued her Findings and Recommendations, which were filed September 27, 2024. This matter was scheduled for final adjudication on December 13, 2024, at a regularly scheduled Board meeting. A copy of the Hearing Officers Findings and Recommendations was served upon Respondent's counsel via email and certified mail.

On November 12, 2024, a notice of the adjudication was sent to Respondent's counsel via email and certified mail.

A copy of the adjudication materials, as well as the Investigative Committee's Memorandum of Costs and Disbursements and Attorney's Fees was sent via Fed Ex 2-Day mail to Respondent's counsel on December 5, 2024.

V.

Pursuant to NRS 622A.300(5)(a), the Findings and Recommendations of the Hearing Officer are hereby approved by the Board and are hereby specifically incorporated and made part of this Order by reference. A copy of the Findings and Recommendations filed September 27, 2024, in this matter are attached hereto as **Exhibit 1.**

VI.

The Board hereby finds that Count I, as set forth in the Complaint, and as recapitulated in Paragraph II above, has 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's medical license 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 NAC Chapter 630, and NRS Chapters 630, 241, 622A and 233B, and all legal requirements of due process.

III.

With respect to the allegations of the Complaint, the Board concludes that Respondent has violated the Medical Practice Act, as alleged in the Complaint, as follows: one (1) count of

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NRS 630.306(1)(b)(3), Violation of the Statutes and Regulations of the Nevada Board of Pharmacy. Accordingly, Respondent is subject to discipline pursuant to NRS 630.352.

IV.

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

V.

If any of the foregoing Conclusions of Law is more properly deemed a Finding of Fact, it may be so construed.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, and good cause appearing therefore,

IT IS HEREBY ORDERED that:

1. Respondent is hereby ordered to reimburse the Board the reasonable and necessary costs and expenses actually incurred in the investigation and prosecution of this case in the amount of nine thousand six hundred forty-nine dollars and eighty-one cents ($9,649.81), which amount Respondent shall pay within sixty (60) days of service of this Order;

///

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Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, Nevada 89521
(775) 688-2559

2. Pursuant to NRS 630.352(4)(e), a written public reprimand shall be issued to Respondent; and

3. Respondent's discipline shall be reported to the appropriate entities, including the National Practitioner Databank (NPDB), as required by law.

IT IS SO ORDERED.

DATED this 26th day of December, 2024.

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

NICK M. SPIRTOS, M.D., F.A.C.O.G.
President of the Board

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

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 **SASSAN KAVEH, M.D.**, Case No. 23-10414-1.

I further certify that Nick M. Spirtos, M.D., F.A.C.O.G., is the President of the Nevada State Board of Medical Examiners and that full force and credit is due to his official acts as such; and that the signature to the foregoing **ORDER** is the signature of the said Nick M. Spirtos, M.D., F.A.C.O.G.

IN WITNESS THEREOF, I have hereunto set my hand in my official capacity as Secretary-Treasurer of the Nevada State Board of Medical Examiners.

DATED this 26th day of December, 2024.

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: Maggie Arias-Petrel

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

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

EXHIBIT 1

EXHIBIT 1

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against

SASSAN KAVEH, M.D.,

Respondent.

Case No. 23-10414-1

FILED
SEP 27 2024
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

TO: William P. Shogren
Deputy General Counsel
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, Nevada 89521

Sassan Kaveh, M.D.
c/o Melanie L. Thomas, Esq.
Lewis Brisbois Bisgaard & Smith, LLP
6385 S. Rainbow Blvd., Ste 600
Las Vegas, NV 89118

FINDINGS AND RECOMMENDATION

This matter came for hearing on August 29, 2024. Participating in the hearing were William P. Shogren on behalf of the Investigative Committee of the Nevada State Board of Medical Examiners (the "IC"); Melanie Thomas, Esq. on behalf of Sassan Kaveh, M.D. ("Respondent"), and Respondent. IC witnesses called to testify were Ernesto Diaz, the IC Chief of Investigations, and Respondent. Respondent also testified on his own behalf. All witnesses were sworn. The rule of exclusion was invoked by Respondent.

The Complaint alleges a single count of violation of NRS 630.306(1)(b)(3), *Violation of Statutes and Regulations of the Nevada State Board of Pharmacy*. The charge is premised upon Respondent having entered into a Stipulation and Order with the Nevada State Board of Pharmacy (the "Pharmacy Board"), filed on October 15, 2021, by which Respondent stipulated that he violated specified Nevada statutes, inclusive of NRS Chapter 639, and/or Nevada administrative

code provisions by dispensing a dangerous drug to a patient without a valid dispensing practitioner registration; that Respondent redispersed unused medication and thus a misbranded, mislabeled, and potentially adulterated drug; and that Respondent did so as the holder of a Nevada controlled substance registration in an incompetent, unskillful, or negligent manner, engaged in unprofessional conduct, and committed an act that renders registration inconsistent with the public interest. *See* IC Exhibit 5 (the "Stipulation"). As part of the Stipulation, Respondent accepted a public reprimand by the Pharmacy Board, was to pay a fine, was to reimburse the Pharmacy Board for fees and costs, and was ordered to comply with all federal and state statutes and regulations regarding controlled substances and dangerous drugs. Id.

Prior to the hearing, Respondent, through motion practice, took issue with the procedural manner by which the charge against him was initiated and pursued. Written rulings as to the same were undertaken by a prior hearing officer who denied relief based thereon. As such, the hearing was limited to the merits of the charge, although Respondent addressed the underlying motion arguments in opening statement; to a limited extent, due to being restricted by the undersigned, through questioning; and in closing.

With respect to the scope of the hearing, the merits of the underlying charge were unequivocally established and never directly challenged. In particular, NRS 630.306(1)(b)(3) provides that engaging in any conduct that is a violation of NRS Chapter 639 or a regulation adopted by the State Board of Pharmacy pursuant thereto, which is applicable to a licensee who is a practitioner as defined in NRS 639.0125, constitute grounds for initiating disciplinary action or denying licensure. Based upon being deemed a practitioner as defined by NRS 639.0125, which was never disputed, and having violated a provision (or provisions) of NRS Chapter 639 as stipulated to by Respondent before the Pharmacy Board, Respondent is, in turn, in violation of NRS 630.306(1)(b)(3) as alleged.

As and for a recommendation for discipline, given Respondent's violation rests initially with the Pharmacy Board and the current violation is a direct result thereof with no additional or separately alleged violation beyond that already addressed by the Pharmacy Board; in light of the Pharmacy Board having already disciplined Respondent for the violation underlying the charge; in

consideration of Respondent's self-reporting by and through correspondence from Respondent's counsel, dated November 10, 2021 (*see* IC Exhibit 4);[1] and in consideration of efforts by Respondent to address the violation, which Respondent testified includes having undertaken continuing medical education "in relation to the investigation" of the charge (*see* Hearing Transcript, p. 97, lines 19-22), undersigned respectfully submits that Respondent's discipline should be reflective of the discipline imposed by the Pharmacy Board absent imposition of a fine, which would be unnecessarily duplicative, that being administration of a public reprimand; a requirement that Respondent pay all costs incurred by the Board relating to its disciplinary proceedings; and that Respondent be mandated to comply with all federal and state statutes and regulations regarding controlled substances and dangerous drugs.

RESPECTFULLY SUBMITTED this 26th day of September 2024.

Patricia Halstead, Esq., Hearing Officer for the
Nevada State Board of Medical Examiners
615 S. Arlington Ave.
Reno, NV 89509
(775) 322-2244
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[1] Whether or not the self-reporting led to the IC charge or it came to fruition by other means was a topic of limited inquiry at the hearing but goes to the underlying motion arguments, which had been denied.

EXHIBIT AA

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In The Matter of Charges and Complaint **Against:** **SASSAN KAVEH, M.D.,** **Respondent.**	**Case No: 23-10414-1**

FILED

JAN 13 2025

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

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TO

Sassan Kaveh, M.D.
c/o Melanie L. Thomas, Esq.
Wood, Smith, Henning & Berman, LLP
2881 Business Park Court, Suite 200
Las Vegas, NV 89128

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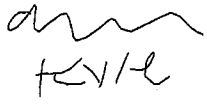
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