

1 **BEFORE THE NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE**

2
3 IN THE MATTER OF THE COMPLAINT)
4 AGAINST)
5 GARY LUTZ, D.O.)
6 RESPONDENT.)

Case No.: AD-04-1-327

Filed: 2-12-04


Executive Director

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10 **COMPLAINT**

11 Pursuant to the provisions of Chapter 633 of the Nevada Revised Statutes, and by
12 virtue of the authority vested in it by said chapter, the Investigative Board Member of the
13 Nevada Board of Osteopathic Medicine, having a reasonable basis to believe that GARY
14 LUTZ, D.O. hereinafter referred to as "RESPONDENT," has violated the provisions of said
15 chapter, hereby issues its formal Complaint, stating the Investigative Board Member's charges
16 and allegations, as follows:

17 1. That RESPONDENT is licensed in active status to practice medicine in the state
18 of Nevada, and at all times alleged herein, was so licensed by the Board of Osteopathic
19 Medicine of the State of Nevada pursuant to the provisions of Chapter 633 of the Nevada
20 Revised Statutes.

21 2. That NRS 633.511(1) provides that unprofessional conduct is grounds for
22 initiating disciplinary proceedings.

23 3. NRS 633.511(1) provides "Unprofessional conduct" includes:

24 (f) Engaging in any:

25 (1) Professional conduct which is intended to deceive or
26 which the board by regulation has determined is unethical;

...

27 4. Pursuant to NAC 633.350, a licensee engages in unethical conduct if he:

28 ...

1 120 Morphine Sulfate 100 mg
2 150 Endocet 650mg-10mg
3 90 Amitriptyline 100mg

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5 10. On or about December 12th, 2003, Respondent learned about Patient A's
6 attempted suicide which required her to be hospitalized for intestinal error and subsequently
7 treated at Southern Nevada Adult Mental Health Services.

8 11. On or about December 12, 2003, Respondent treated Patient A and prescribed
9 the following medications:

<u>Quantity</u>	<u>Medication</u>	<u>Dosage</u>
10 30	Xanax	2mg
11 150	Percocet	325mg
12 15	Halcion	.25mg

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15 12. Respondent's medical records indicate that Patient A already had a prescription
16 for Amitriptyline, which was prescribed on October 10, 2003, and refilled on December 17,
17 2003 while another doctor put her on Zoloft. The Zoloft was prescribed by a psychiatrist from
18 Southern Nevada Adult Mental Health Services for Patient A. There is no indication in the
19 record that Respondent contacted or attempted to contact Patient A's psychiatrist to discuss
20 the implications of prescribing additional narcotic medications.

21 13. The medication found at Patient A's home after her death and inventoried by the
22 Clark County Coroner's office in its Medication Activity Log on January 2, 2004 is as follows:

<u>Medication</u>	<u>Rx Amount</u>	<u>Amount Left</u>	<u>Rx Date</u>	<u>Physician</u>
23 Amitriptyline	90	0	12/17/03	Dr. DO Lutz
24 Alprazolam	90	49	6/3/03	Dr. Gary Lutz
25 Hydrocodone	120	0	12/08/03	Dr. Gary Lutz
26 Cephalexin	40	9	12/22/03	Dr. Gary Lutz
27 Zoloft	13	2	12/17/03	Dr. Rosenthal

1	Alprazolam	90	72.5	8/01/03	Dr. Gary Lutz
2	Ambien	30	15.5	10/22/03	Dr. Gary Lutz
3	Triazolam	15	0	12/17/03	Dr. Gary Lutz

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COUNT ONE

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14. The allegations set forth in paragraphs 1 through 13 are incorporated herein as if set out in full.

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15. The medication prescribed by Respondent on or about October 10, 2003 when Respondent was aware that Patient A had suicidal ideation and was depressed was

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malpractice. Triazolam, Morphine Sulfate and Endocet are narcotics which are depressants.

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In prescribing said narcotics, Respondent failed to use the requisite degree of care, diligence

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or skill ordinarily exercised by osteopathic physicians in good standing in the community and

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by prescribing the medication Respondent endangered the patient and committed gross

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malpractice.

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16. Xanax and Percocet are narcotics which are depressants. The medication

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prescribed by Respondent on or about December 12, 2003 when Respondent was aware that

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Patient A had actually attempted suicide by intestinal error and was on antidepressant

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medication prescribed by her psychiatrist constitutes repeat and gross malpractice.

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17. Respondent prescribed medications without consultation with her psychiatrist

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and treated Respondent for depression without referring patient to a psychiatric specialist.

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Respondent prescribed depressants to a depressed person in quantities that could be

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dangerous to the patient knowing her suicidal tendency.

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18. Respondent repeatedly and grossly failed to use the requisite degree of care,

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diligence or skill ordinarily exercised by osteopathic physicians in good standing in the

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community and by prescribing the medication Respondent endangered the patient. Such

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conduct constitutes repeated and gross malpractice.

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19. The gross and repeated malpractice committed by RESPONDENT, GARY

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LUTZ, D.O., is grounds for disciplinary action pursuant NRS 633.511(4).

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COUNT TWO

20. The allegations set forth in paragraphs 1 through 19 are incorporated herein as if set out in full.

21. Respondent treated Patient B from January 2003 to January 2004. In his treatment of Patient B, Respondent prescribed Methdone, HCL, or Methodose, a form of Methodone, a controlled substance, as follows:

<u>Date</u>	<u>Medication</u>	<u>Quantity</u>	<u>Dosage</u>
1/27/03	Methadone HCL	1080	10 mg
2/24/03	Methadone HCL	1080	10 mg
3/21/03	Methadone HCL	1080	10 mg
4/15/03	Methadone HCL	1080	10 mg
5/12/03	Methadone HCL	1080	10 mg
6/6/03	Methadone HCL	1080	10 mg
6/30/03	Methadose	1080	10 mg
7/23/03	Methadone HCL	1080	10 mg
8/12/03	Methadose	1080	10 mg
9/5/03	Methadone HCL	1080	10 mg
9/26/03	Methadone HCL	1080	10 mg
10/13/03	Methodose	1080	10 mg
10/29/03	Methodose	1800	10 mg
11/24/03	Methadone HCL	1000	10 mg
12/23/03	Methadone HCL	1000	10 mg
1/09/04	Methadone HCL	1000	10 mg

22. At the quantity prescribed, the patient would take 36 doses of medication per day. The amount of Methodose prescribed on 10/29/03 of 1800, the patient would take 60 doses a day. Even if Methodone was prescribed for chronic pain, such amounts as prescribed are excessive. In addition to the excessive prescribing of Methadone; Lortab and Amphetamines, both controlled substances were simultaneously prescribed in excessive

1 doses over the same 12 month period.

2 23. That RESPONDENT'S prescribing of a controlled substance is excessive and is
3 a violation of NAC 633.350(6) and NRS 633.131(f)(1) and constitutes unprofessional conduct
4 and is grounds for disciplinary action pursuant to NRS 633.511(1).

5 . . .

6 **COUNT THREE**

7 24. The allegations set forth in paragraphs 1 through 23 are incorporated herein as if
8 set out in full.

9 25. That the public health, safety, and welfare imperatively require action and
10 summary suspension of GARY LUTZ, D.O.'s, license to practice medicine in the state of
11 Nevada pending a hearing on the Complaint. That the continuing practice of medicine or the
12 continuing ability to practice medicine by GARY LUTZ, D.O., during the pendency of the time
13 necessary for a hearing on this Complaint would endanger the health, safety, and welfare of
14 his patients.


15 WHEREFORE, the Investigative Member of the Board of Osteopathic Medicine prays
16 as follows:

- 17 1. That the Nevada State Board of Osteopathic Medicine schedule an emergency
18 hearing and affirmatively find that the public health, safety, and welfare
19 imperatively require emergency action and summarily suspend RESPONDENT's
20 license to practice Osteopathic Medicine in the state of Nevada pending a
21 hearing on the Complaint pursuant to NRS 633.591;
- 22 2. That the Nevada State Board of Osteopathic Medicine conduct a hearing on this
23 Complaint as provided by statute;
- 24 3. That, pursuant to NRS 633.651, RESPONDENT be publicly reprimanded and/or
25 the license of RESPONDENT, GARY LUTZ, D.O., be revoked, suspended,
26 limited to a specified branch of osteopathic medicine, or placed on probation
27 with conditions and terms as the Nevada State Board of Osteopathic Medicine
28 may deem just and proper and which are not inconsistent with law;

1 4. That RESPONDENT, GARY LUTZ, D.O., be ordered to pay reasonable
2 attorney's fees and costs of the investigation and the administrative and
3 disciplinary proceedings.

4 DATED this 12 day of February, 2004.

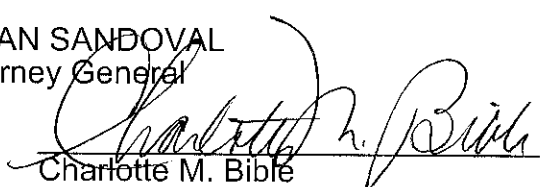
5 By:


6 GARY MONO, D.O.,
7 Investigating Member of the
8 Nevada Board of Osteopathic Medicine

9 Submitted by:

10 BRIAN SANDOVAL
11 Attorney General

12 By:


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