



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MARYANNE DEFOREST PHILLIPS,
M.D.,
Appellant,
vs.
BOARD OF MEDICAL EXAMINERS OF
THE STATE OF NEVADA,
Respondent.

No. 90206-COA

ORDER OF AFFIRMANCE

Maryanne DeForest Phillips, M.D., appeals from a district court order denying a petition for judicial review of a decision by the respondent Nevada State Board of Medical Examiners (the Board) revoking her license to practice medicine. First Judicial District Court, Carson City; Hon. Kristin Luis, Judge.

From approximately June 2020 through June 2021, Dr. Phillips worked as an independent contractor with Vida Spa, a so-called “medical spa” licensed as a cosmetology establishment and designated as a “facility that provides health care, other than a medical facility” pursuant to NRS 449.442. Significantly, Vida Spa did not hold the permit required by NRS 449.442 to offer patients general anesthesia, conscious sedation, or deep sedation. After receiving consumer complaints and conducting an investigation, the Board

developed cause to believe that between April 13, 2021, and June 23, 2021, Dr. Phillips administered propofol for the purposes of general anesthesia, conscious sedation, or deep sedation at least 72 times to 72 different patients of Vida Spa during cosmetic surgical procedures and failed to note the use of propofol in the medical records for at least 61 of those 72 patients. The Board also developed cause to believe that Dr. Phillips engaged in the unauthorized practice of medicine by performing cosmetic surgical procedures at Vida Spa.

In June 2021, the Board summarily suspended Dr. Phillips from the practice of medicine. The Investigative Committee (IC) of the Board subsequently filed a formal complaint against Dr. Phillips alleging 260 violations of NRS Chapter 630 and NAC Chapter 630. Counts 1-72 alleged that Dr. Phillips administered general anesthesia, conscious sedation, or deep sedation to 72 patients at a facility lacking proper permitting, in violation of NRS 630.373. Counts 73-133 alleged that Dr. Phillips failed to maintain proper medical records for at least 61 patients by omitting any reference to the use of anesthesia or sedation from the patients' medical records, in violation of NRS 630.3062(1)(a). Counts 134-194 alleged that Dr. Phillips falsified records of health care, in violation of NRS 630.306(1)(b)(2) and NAC 630.230(1)(a). Counts 195-255 alleged that Dr. Phillips engaged in unsafe or unprofessional conduct in violation of NRS 630.306(1)(p) and NAC 630.230(1)(a) by falsifying medical records. Count 256 alleged that Dr. Phillips aided in the unlicensed practice of medicine. Count 257 alleged that Dr. Phillips engaged in conduct that brought the medical profession into disrepute in violation of NRS 630.301(9). Count 258—which was later voluntarily dismissed by the Board—

alleged that Dr. Phillips violated a Board order in violation of NRS 630.3065(2)(a). Finally, Counts 259 and 260 alleged that Dr. Phillips committed malpractice involving a single patient, in violation of NRS 630.301(4).

Dr. Phillips participated in a three-day hearing before a Board hearing officer. During that hearing, the IC presented witnesses and documentary evidence concerning the aforementioned charges. In particular, witnesses testified concerning Dr. Phillips' actions while practicing at Vida Spa, including participating in the administration of sedation and anesthesia and concerning a liposuction procedure in which a patient sustained serious complications. Witnesses also testified concerning Vida Spa's failure to have the required permit to offer patients sedation and anesthesia and also regarding the failure of Vida Spa and Dr. Phillips to utilize appropriate medical recordkeeping practices. Dr. Phillips testified she was not aware Vida Spa was not properly licensed. Dr. Phillips denied being responsible for administering anesthesia, as she asserted that was a nurse's responsibility during the surgical procedures. Dr. Phillips also asserted that any deficiencies in the patients' medical records were attributable to Vida Spa as the custodian of records.

The hearing officer later filed findings regarding the evidence adduced at the hearing, notably determining that Dr. Phillips was not credible. The hearing officer also determined that the evidence established Dr. Phillips either knew or reasonably should have known that anesthesia or sedation was administered without proper licensing. And the hearing officer also

determined that the evidence established that Dr. Phillips did not maintain proper medical records and either knew or should have known that Vida Spa falsified medical records in an effort to conceal administration of anesthesia. The hearing officer accordingly recommended that the Board find against Dr. Phillips on Counts 1-257, and 259, and to dismiss Count 260 as duplicitous.

The Board subsequently entered an order approving the hearing officer's findings and recommendations in their entirety and incorporated them into its decision. The Board ultimately concluded that each violation in the operative complaint except for the violations alleged in Counts 258 and 260 were established by a preponderance of the evidence. The Board therefore ordered, *inter alia*, that Dr. Phillips' license to practice medicine be immediately revoked and that Dr. Phillips could not apply for reinstatement of her license for a period of six years. Dr. Phillips thereafter filed a timely petition for judicial review. Following briefing, the district court denied Dr. Phillips' petition. This appeal followed.

On appeal, Dr. Phillips challenges the decisions of the hearing officer and the Board. Dr. Phillips' arguments on appeal primarily center on whether there was substantial evidence to support the Board's factual findings. This court applies the same standards as the district court in resolving a petition for review of an administrative agency's decision in a contested case. *Nassiri v. Chiropractic Physicians' Bd.*, 130 Nev. 245, 248, 327 P.3d 487, 489 (2014). In reviewing the agency's final decision, "[t]he court shall not substitute its judgment for that of the agency as to the weight of evidence on a question of fact." NRS 233B.135(3). "The agency's factual findings are

reviewed deferentially for clear error or an abuse of discretion and will not be overturned if supported by substantial evidence.” *Redevelopment Agency of Sparks v. Nev. Lab. Comm’r*, 140 Nev. 409, 413, 551 P.3d 303, 308 (2025) (internal quotation marks omitted); *see also* NRS 233B.135(3)(e)-(f). “Substantial evidence exists if a reasonable person could find the evidence adequate to support the agency’s conclusion.” *Law Offices of Barry Levinson, P.C. v. Milko*, 124 Nev. 355, 362, 184 P.3d 378, 384 (2008). This court will not reweigh the evidence or revisit an agency’s credibility determination. *City of Las Vegas v. Lawson*, 126 Nev. 567, 571, 245 P.3d 1175, 1178 (2010). Additionally, this court “will not substitute [our] judgment as to the weight of the evidence for that of the administrative agency.” *Langman v. Nev. Adm’rs, Inc.*, 114 Nev. 203, 210, 955 P.2d 188, 192 (1998).

Dr. Phillips first argues on appeal that the record lacked substantial evidence she administered propofol to patients at an unlicensed facility as alleged in Counts 1-72 of the operative complaint. Instead, Dr. Phillips asserts that the evidence and testimony adduced at the hearing showed that nurses working for Vida Spa administered propofol to patients, while she was merely responsible for testing for propofol allergies and “be[ing] present on standby in case of an emergency.”

At the time the Board filed the operative complaint, NRS 630.373 provided that “a physician shall not administer or supervise directly the administration of general anesthesia, conscious sedation or deep sedation to patients” unless such anesthesia or sedation is administered at a permitted

facility. *See* NRS 630.373(1) (2009).¹ During the hearing, Dr. Phillips testified that she began working as an independent contractor for Vida Spa in June 2020 and initially worked as an anesthesiologist. Dr. Phillips further testified that she supervised nurses administering propofol during liposuction procedures. Hence, even assuming that Dr. Phillips' role was limited to supervising the administration of propofol by nurses as she testified, there is substantial evidence supporting the hearing officer's conclusion that Dr. Phillips engaged in conduct prohibited by the express terms of NRS 630.373(1) (2009). Moreover, the evidence established that Vida Spa did not have the permit required to offer patients general anesthesia, conscious sedation, or deep sedation, and Dr. Phillips does not challenge the Board's related findings concerning that issue.

Furthermore, the hearing officer made findings, which were later adopted by the Board, that the evidence and testimony at the hearing established that Vida Spa engaged in recordkeeping practices designed to obscure its unpermitted use of anesthesia and sedation. Specifically, the testimony and evidence established that Vida Spa maintained a "sedation log" which notated the administration of propofol and other sedation or anesthesia to patients during cosmetic surgical procedures. The evidence and testimony further established that when Dr. Phillips participated in a procedure at Vida

¹NRS 630.373 was amended during the 2025 legislative session. *See* 2025 Nev. Stat., ch. 246, § 65, at 1633-34; 2025 Nev. Stat., ch. 464, § 2, at 3034. Because this matter took place before the effective date of the amendments, we refer to the version of NRS 630.373 that was in effect at that time.

Spa, she would note treatment and medications provided to the patient but did not record the administration of anesthesia and sedation in at least 61 of the at-issue patients' individual medical records. Instead, the administration of sedation and anesthesia was only entered in the sedation log. And the hearing officer issued findings, later adopted by the Board, that the totality of the evidence—particularly the existence of the sedation log and Dr. Phillips' failure to note sedation or anesthesia in most of her patient charts—demonstrated Dr. Phillips knew or should have known that Vida Spa was maintaining the sedation log separate from other medical records to hide its improper use of sedation and anesthesia. This court will not reweigh the evidence or revisit credibility determinations. *See Lawson*, 126 Nev. at 571, 245 P.3d at 1178. Accordingly, Dr. Phillips fails to demonstrate that the Board's decision with respect to Counts 1-72 was not supported by substantial evidence. Therefore, we conclude Dr. Phillips is not entitled to relief based on this argument.

Second, Dr. Phillips asserts there is “no evidentiary support” demonstrating she failed to maintain proper medical records or falsified medical records as alleged in Counts 73-133 and Counts 134-194. Building upon her first argument, Dr. Phillips reasons that because the IC failed to present evidence that she personally administered propofol to the at-issue patients, “she could not have also failed to keep records of administration of the same.” As discussed above, however, substantial evidence established that Dr. Phillips either administered or supervised the administration of propofol to at least 72 patients during the time alleged in the operative complaint, and

that for at least 61 of those patients, she did not note the use of sedation or anesthesia in the patients' medical records. Moreover, as noted previously, several witnesses testified concerning the failure of both Vida Spa and Dr. Phillips to follow proper medical record keeping practices, and this court will not reweigh the evidence or revisit credibility determinations. *See Lawson*, 126 Nev. at 571, 245 P.3d at 1178. Dr. Phillips therefore fails to demonstrate that the Board's decision with respect to Counts 73-133 and Counts 134-194 was not supported by substantial evidence. Therefore, we conclude Dr. Phillips is not entitled to relief based on this argument.

Third, Dr. Phillips contends the Board's finding that she violated standards of practice and engaged in unsafe or unprofessional conduct as alleged in Counts 195-255 lacks substantial evidence because she never administered propofol to any of the patients identified in the operative complaint. As discussed above, there is substantial evidence supporting the Board's determination that Dr. Phillips either administered or supervised the administration of propofol to at least 72 patients during the period of time identified in the operative complaint. And evidence was presented concerning Dr. Phillips' failure to either keep appropriate records concerning the use of sedation and anesthesia or her acts of falsifying records related to the same. Thus, Dr. Phillips fails to demonstrate that the Board's decision regarding Counts 195-255 was not supported by substantial evidence. Therefore, we conclude Dr. Phillips is not entitled to relief based on this argument.

Fourth, Dr. Phillips argues there was "no evidence" to support the Board's finding that she aided in the unlicensed practice of medicine as alleged

in Count 256 of the operative complaint. Pursuant to NRS 630.305(1)(e), “[a]iding, assisting, employing or advising, directly or indirectly, any unlicensed person to engage in the practice of medicine” constitutes grounds for initiating disciplinary action or denying licensure. The evidence and testimony adduced at the hearing established that in June 2020, a patient identified in the proceedings as “Patient TTT” presented to Vida Spa for an abdominal liposuction with fat transfer to the buttocks, a procedure commonly referred to as a “Brazilian Butt Lift” or “BBL.” Dr. Phillips oversaw the sedation of Patient TTT, while the BBL procedure was performed by a physician’s assistant. The physician’s assistant was not licensed to work without a supervising physician, but there was no supervising physician present during the procedure. The hearing officer issued findings, later adopted by the Board, that the aforementioned evidence established that by permitting the physician’s assistant to perform the BBL procedure on Patient TTT without the required supervising physician, Dr. Phillips aided or assisted, directly or indirectly, the practice of medicine by an unlicensed person. See NRS 630.305(1)(e). As noted previously, this court will not reweigh the evidence or revisit credibility determinations. See *Lawson*, 126 Nev. at 571, 245 P.3d at 1178. Accordingly, Dr. Phillips fails to demonstrate that the Board’s decision regarding Count 256 was not supported by substantial evidence. Therefore, we conclude that Dr. Phillips is not entitled to relief based on this argument.

Fifth, Dr. Phillips argues that the Board’s determination she committed malpractice with respect to the treatment of Patient TTT was

erroneous because there was no evidence she treated or had a physician-patient relationship with Patient TTT and she therefore owed Patient TTT no duty of care. In making this argument, Dr. Phillips relies on NRS 41A.015, which defines “professional negligence” for the purposes of civil actions brought pursuant to NRS Chapter 41A. However, Dr. Phillips does not demonstrate that NRS 41A.015 is applicable to this administrative matter. Instead, the relevant definition is provided by NAC 630.040, which provides that malpractice is “the failure of a physician, . . . in treating a patient, to use the reasonable care, skill or knowledge ordinarily used under similar circumstances.”

The record before this court contains substantial evidence supporting the Board’s finding that Dr. Phillips was involved in treating Patient TTT and failed to use the reasonable care, skill, or knowledge ordinarily used in similar surgical procedures. As set forth above, Dr. Phillips participated in a procedure where a physician’s assistant engaged in the practice of medicine without the presence of a supervising physician. Further, there was ample testimony at the hearing from medical providers demonstrating Dr. Phillips’ treatment of Patient TTT fell below the standard of care. The medical chart for Patient TTT indicates she experienced significant blood loss during the BBL procedure. After the procedure was over, flumazenil (a reversal agent) was administered by a nurse under Dr. Phillips’ direction to wake Patient TTT up from sedation. Just after discharge, Patient TTT suffered a syncopal event in Vida Spa’s parking lot and was taken to the

hospital via ambulance. The record further indicates that Patient TTT suffered serious health issues following the BBL procedure.

A board-certified anesthesiologist who testified as an expert for the IC identified several deficiencies in Patient TTT's medical records. The anesthesiologist opined that the most significant issue with Dr. Phillips' treatment of Patient TTT was inadequate postoperative care. The anesthesiologist explained that because using a reversal agent is "outside of normal practice" given that most patients awake from sedation without chemical intervention, "there needs to be more done, and that would include at least basic notes on [the patient's mental status] if not a full [mental status] examination by a physician who is responsible." Further, the anesthesiologist expressed concern that Patient TTT's medical chart did not indicate she was provided supplemental oxygen and did not include an electrocardiogram record, two things he would normally note in his own medical records.

The anesthesiologist also testified as to his opinion that Patient TTT's medical chart indicated Dr. Phillips did not sufficiently measure and record the patient's vital signs. Finally, the anesthesiologist testified that based on his prior experience administering anesthesia during plastic surgery procedures, Vida Spa did not have adequate medical personnel present for Patient TTT's BBL procedure. A board-certified plastic surgeon who appeared as an expert for the IC similarly expressed concerns about Patient TTT's postoperative care, explaining that based on her review of the medical records, she would have sent Patient TTT directly to the hospital rather than discharging her for home. This court will not reweigh the evidence or revisit

credibility determinations. *See Lawson*, 126 Nev. at 571, 245 P.3d at 1178. In light of the foregoing, Dr. Phillips fails to demonstrate the Board's decision that she engaged in malpractice was not supported by substantial evidence. Therefore, we conclude Dr. Phillips is not entitled to relief based on this argument.

Finally, Dr. Phillips argues that the punishment implemented by the Board is arbitrary and capricious. Dr. Phillips specifically argues that because she testified that she believed Vida Spa held the required permit to administer anesthesia or sedation, she could not have intended to violate any rules or regulations related to unlicensed practices. Dr. Phillips further argues that because there is no evidence she engaged in intentional misconduct or a pattern of dangerous behavior, the Board's decision to revoke her license should be set aside.

NRS 630.352(2) permits the Board to "impose discipline based upon the findings of fact and conclusions of law and the presentations of the parties." "NRS 630.352(2) empowers the Board, and not a reviewing court, to impose specific sanctions." *Bd. of Med. Examiners of State of Nev. v. Potter*, 99 Nev. 162, 166, 659 P.2d 868, 871 (1983). Here, to the extent Dr. Phillips argues on appeal that any of the statutes or regulations the Board found she violated require specific intent, she has not provided cogent argument or relevant authorities to support her position. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (stating that the appellate courts need not consider claims that are not supported by cogent argument and relevant authority). Moreover, in light of the substantial

evidence discussed above supporting the Board's determination that Dr. Phillips engaged in a pattern of conduct which violated multiple statutes and codes governing the practice of medicine, she has failed to demonstrate the Board's decision to revoke her license was arbitrary and capricious. *See Skender v. Brunsonbuilt Constr. & Dev. Co.*, 122 Nev. 1430, 1435, 148 P.3d 710, 714 (2006) (explaining an abuse of discretion occurs when a decision "is arbitrary or capricious or if it exceeds the bounds of law or reason" (internal quotation marks omitted)). Accordingly, Dr. Phillips fails to demonstrate she is entitled to relief based on this argument. Therefore, we

ORDER the judgment of the district court AFFIRMED.



Bulla, C.J.



Gibbons, J.



Westbrook, J.

cc: Hon. Kristin Luis, District Judge
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