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

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**In the Matter of Charges and
Complaint Against
DOUGLAS STEWART LYNCH, PA-C,
Respondent.**

Case No. 15-41732-1

FILED
SEP 11 2015
NEVADA STATE BOARD OF
MEDICAL EXAMINERS
By: 

SETTLEMENT AGREEMENT

The Investigative Committee¹ (IC) of the Nevada State Board of Medical Examiners (Board) and Douglas Stewart Lynch, PA-C (Respondent), a licensed physician assistant in Nevada, hereby enter into this Settlement Agreement (Agreement) based on the following:

A. Background

1. Respondent is a physician assistant licensed by the Board to practice medicine in Nevada since December 30, 2013 (license no. PA1486).

2. On March 19, 2015, the IC issued an Order of Summary Suspension in this matter based on its preliminary determination from investigative findings that Respondent was engaging in acts that put the health, safety, or welfare of the public at risk of imminent harm.

3. On April 28, 2015, the parties stipulated to continuing the scheduled hearing to allow the parties an opportunity to resolve this matter without a hearing. Respondent acknowledged that his license would remain in a suspended status for an indefinite period of time pending resolution of this matter.

4. On May 6, 2015, the IC filed the formal Complaint (Complaint) in this matter

¹ The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board) was composed of Board members Theodore B. Berndt, M.D., Chairman, Valerie J. Clark, BSN, RHU, LUTCF, Member, and Michael J. Fischer, M.D., Member at the time the IC voted to file this Complaint. As of July 8, 2015, Ms. Clark is no longer a member of the IC or Board.

1 charging Respondent with violations of Nevada Revised Statutes (NRS) Chapter 630 and Nevada
2 Administrative Code (NAC) Chapter 630 (collectively Medical Practice Act). The Complaint
3 alleged that Respondent was unable to practice medicine with reasonable skill and safety because
4 of the use of drugs. NRS 630.306(1). The Complaint also alleged that Respondent violated the
5 Nevada standards of practice established by regulation because a Physician Assistant (PA) is
6 prohibited from rendering professional services to a patient while the PA is in any impaired
7 mental or physical condition. NAC 630.230(1)(c).

8 5. Respondent was properly served with a copy of the Complaint, and has reviewed
9 the Complaint, understands the Complaint, and has had the opportunity to consult with competent
10 counsel concerning the nature and significance of the Complaint.

11 6. Respondent has been cooperative and has fully complied with every request and
12 order of the Board or IC. Respondent has attended in-patient treatment, out-patient treatment,
13 several IC-ordered evaluations, and has committed to continuing treatment as recommended by
14 various evaluations he has received.

15 7. Respondent is hereby advised of Respondent's rights regarding this administrative
16 matter, and of Respondent's opportunity to defend against the allegations in the Complaint.
17 Specifically, Respondent has certain rights in this administrative matter as set out by the United
18 States Constitution, the Nevada Constitution, the Medical Practice Act, and the Nevada
19 Administrative Procedure Act (APA) (NRS Chapter 233B). These rights include the right to a
20 formal hearing on the allegations in the Complaint, the right to representation by counsel, at
21 Respondent's own expense, in the preparation and presentation of Respondent's defense, the right
22 to confront and cross-examine the witnesses and evidence against Respondent, the right to written
23 findings of fact, conclusions of law, and order reflecting the final decision of the Board, and the
24 right to judicial review of the Board's order, if the decision is adverse to Respondent.

25 8. Respondent understands that, under the Board's charge to protect consumers by
26 regulating the practice of medicine, the Board may take disciplinary action against Respondent's
27 license, including license probation, license suspension, license revocation, and imposition of
28 administrative fines, as well as any other reasonable requirement or limitation, if the Board

1 concludes that Respondent violated one or more provisions of the Medical Practice Act.

2 9. Respondent understands and agrees that this Agreement, by and between Respondent
3 and the IC, is not with the Board, and that the IC will present this Agreement to the Board for
4 consideration in open session at a meeting duly noticed and scheduled. Respondent understands
5 that the IC shall advocate for the Board's approval of this Agreement, but that the Board has the
6 right to decide in its own discretion whether or not to approve this Agreement. Respondent further
7 understands and agrees that if the Board approves this Agreement, then the terms and conditions
8 enumerated below shall be binding and enforceable upon Respondent and the Board.

9 **B. Terms & Conditions**

10 **NOW, THEREFORE**, in order to resolve this matter, Respondent and the IC hereby
11 agree to the following terms and conditions:

12 **1. Jurisdiction.** Respondent is and, at all times relevant to the Complaint, has been a
13 physician assistant licensed to practice medicine in Nevada subject to the jurisdiction of the Board as
14 set out in the Medical Practice Act. The IC may initiate disciplinary action against a licensee when it
15 finds a licensee is unable to practice medicine with reasonable skill and safety because of the use of
16 drugs. NRS 630.306(1).

17 **2. Representation by Counsel/Knowing, Willing, and Intelligent Agreement.**
18 Respondent understands that he may retain and consult counsel prior to entering into this
19 Agreement at his own expense. Respondent acknowledges that he is not represented by counsel in
20 Nevada, and wishes to resolve this matter without counsel. Respondent agrees that, if counsel is
21 retained for representation in this matter prior to entering into this Agreement, counsel for the IC
22 will be informed of such representation prior to Respondent's executing this Agreement.
23 Respondent agrees that he enters into this Agreement knowingly, willingly, and intelligently.

24 **3. Waiver of Rights.** In connection with this Agreement, and the associated terms
25 and conditions, Respondent knowingly, willingly, and intelligently waives all rights in connection
26 with this administrative matter. Respondent hereby knowingly, willingly, and intelligently waives
27 all rights arising under the United States Constitution, the Nevada Constitution, the Medical
28 Practice Act, the APA, and any other legal rights that may be available to Respondent or that may

1 apply to Respondent in connection with the administrative proceedings resulting from the
2 Complaint filed in this matter, including defense of the Complaint, adjudication of the allegations
3 set forth in the Complaint, and imposition of any disciplinary actions or sanctions ordered by the
4 Board. Respondent agrees to settle and resolve the allegations of the Complaint as set out by this
5 Agreement without a hearing or any further proceedings, and without the right to judicial review.

6 4. **Acknowledgement of Reasonable Basis to Proceed.** Respondent acknowledges
7 that the IC has a reasonable basis to believe that Respondent engaged in conduct that is grounds
8 for discipline pursuant to the Medical Practice Act.

9 5. **Consent to Entry of Order.** In order to resolve this matter without incurring any
10 further costs or the expense associated with a hearing, Respondent hereby agrees that the Board may
11 issue an order finding that Respondent violated the Medical Practice Act when Respondent tested
12 positive for illicit drug use, as set forth in the Complaint, violating NRS 630.306(1). Accordingly,
13 Respondent hereby agrees that:

14 a. The summary suspension imposed upon Respondent's license to practice
15 medicine shall be lifted upon the Board's acceptance of this Agreement. Respondent's license
16 shall be reinstated to Active-Probation status;

17 b. In order to maintain licensure, Respondent shall remain enrolled in a drug
18 treatment program for five years. Respondent is currently enrolled in the PRN Program (Program)
19 directed by Larry Espadero. If the Program feels Respondent is ready to be released before the
20 five-year period, the Board's Compliance Officer shall be notified prior to Respondent's release
21 from the Program. At the conclusion of the Program, a final report shall be filed with the IC. The
22 IC may order Respondent to obtain a psychiatric examination and drug evaluation, at
23 Respondent's expense, to determine whether further monitoring by the Board is necessary. At
24 that time, if the IC concludes based on the results of the examination and evaluation that further
25 monitoring is necessary, the IC shall make a recommendation to the Board at the next scheduled
26 Board meeting, and this Agreement shall remain in effect until the Board makes a determination.
27 If no further examination or evaluation is ordered, Respondent's license shall revert to Active-
28 Unrestricted status.

1 In the event a change in the Program is necessary before the five-year
2 period concludes, Respondent shall work with the Board's Compliance Officer to identify
3 acceptable alternative programs to allow Respondent to continue treatment to maintain licensure,
4 which would then be presented to the IC for approval. The IC may then authorize a Program
5 change by order;

6 c. Respondent shall comply with his providers' recommendations, which shall
7 be monitored by the Board's Compliance Officer, to ensure continued success with his treatment.
8 If a provider's recommendation differs materially from this Agreement, Respondent shall notify
9 the Board's Compliance Officer to determine an acceptable course of action;

10 d. If not already completed, within 14 days of the Board's adoption and
11 approval of this Agreement, Respondent shall execute a release, which complies with the Health
12 Insurance Portability and Accountability Act (HIPAA), in favor of the Board allowing each and
13 every provider to directly provide the Board with status reports regarding Respondent's treatment;

14 e. The Board shall monitor Respondent for five years from the date of the
15 Board's order in this matter unless the Board makes a determination that further monitoring is
16 necessary. Monitoring shall include monthly urine and quarterly hair testing at Respondent's
17 expense. The IC may also periodically request Respondent submit to random drug testing at
18 Respondent's expense. Any test that is positive for illicit drugs shall be considered a violation of this
19 Agreement. Failure to comply with any drug testing request shall be deemed an automatic positive
20 test result.

21 If the IC orders Respondent to obtain a psychiatric examination and drug
22 evaluation at the conclusion of the five-year period, the Board's order requiring monitoring shall
23 remain in effect until the IC determines whether Respondent needs further monitoring. If the IC
24 concludes that Respondent needs further monitoring, the IC shall make a recommendation to the
25 Board at the next scheduled Board meeting;

26 f. The count in the Complaint against Respondent alleging a violation of NAC
27 630.230(1)(c) shall be dismissed;

28 g. The Board shall issue Respondent a public reprimand;

1 h. Within 12 months of the Board's order and at Respondent's expense,
2 Respondent shall complete eight hours of continuing medical education (CME), in addition to
3 Respondent's statutory CME requirements for licensure, on the following topic: substance abuse;

4 i. Within 90 days of the Board's order, Respondent shall pay the Board
5 \$1,839.69, the fees and costs incurred as part of the Board's investigative, administrative, and
6 disciplinary proceedings against Respondent;

7 j. Respondent shall reimburse the Board, within 30 days of notice by the Board,
8 for any reasonable costs and expenses further incurred by the Board in monitoring Respondent's
9 compliance with this Agreement; and

10 k. The terms of this Agreement shall be reported as required by law.

11 **6. Release From Liability.** In execution of this Agreement, Respondent understands
12 and agrees that the state of Nevada, the Board, and each of its members, staff, counsel,
13 investigators, experts, peer reviewers, committees, panels, hearing officers, consultants, and
14 agents are immune from civil liability for any decision or action taken in good faith in response to
15 information acquired by the Board. NRS 630.364(2). Respondent agrees to release the state of
16 Nevada, the Board, and each of its members, staff, counsel, investigators, experts, peer reviewers,
17 committees, panels, hearing officers, consultants, and agents from any and all manner of actions,
18 causes of action, suits, debts, judgments, executions, claims and demands whatsoever, known and
19 unknown, in law or equity, that Respondent ever had, now has, may have or claim to have, against
20 any or all of the persons, government agencies, or entities named in this paragraph arising out of,
21 or by reason of, this investigation, this Agreement, or the administration of this case.

22 **7. Procedure for Adoption of Agreement.** The IC and counsel for the IC shall
23 recommend acceptance, approval, and adoption of the terms and conditions of this Agreement by
24 the Board in resolution of the Complaint pending against Respondent. In the course of seeking
25 Board acceptance, approval, and adoption of this Agreement, counsel for the IC may
26 communicate directly with the Board staff and the adjudicating members of the Board.

27 Respondent acknowledges that such contacts and communication may be made or
28 conducted ex parte, without notice or opportunity to be heard on Respondent's part until the

1 public Board meeting where this Agreement is discussed, and that such contacts and
2 communications may include, but not be limited to, matters concerning this Agreement, the
3 Complaint, and any and all information of every nature whatsoever related to this matter. The IC
4 agrees that Respondent may appear at the Board meeting where this Agreement is discussed and,
5 if requested, respond to any questions related to this matter.

6 **8. Effect of Acceptance of Agreement by Board.** In the event the Board accepts,
7 approves, and adopts this Agreement, the Board shall issue an order, making this Agreement an
8 order of the Board.

9 **9. Effect of Rejection of Agreement by Board.** In the event the Board does not
10 accept, approve, and adopt this Agreement, this Agreement shall be null, void, and of no force and
11 effect except as to the following agreement regarding adjudications: (1) Respondent agrees that,
12 notwithstanding rejection of this Agreement by the Board, nothing contained in this Agreement
13 and nothing that occurs pursuant to efforts of the IC to seek the Board's acceptance of this
14 Agreement shall disqualify any member of the adjudicating panel of the Board from considering
15 the allegations in the Complaint and from participating in disciplinary proceedings against
16 Respondent, including adjudication of the case; and (2) Respondent further agrees that
17 Respondent shall not seek to disqualify any such member absent evidence of bad faith.

18 **10. Binding Effect.** If approved by the Board, Respondent understands that this
19 Agreement is a binding and enforceable contract upon Respondent and the Board.

20 **11. Forum Selection Clause.** Respondent agrees that in the event either party is
21 required to seek enforcement of this Agreement in district court, Respondent consents to such
22 jurisdiction, and agrees that exclusive jurisdiction shall be in the Second Judicial District Court,
23 State of Nevada, Washoe County.


24 **12. Attorneys' Fees and Costs.** Respondent agrees that in the event an action is
25 commenced in district court to enforce any provision of this Agreement, the prevailing party shall
26 be entitled to recover reasonable attorneys' fees and costs. NRS 622.400.

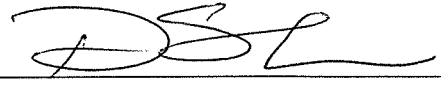
27 **13. Failure to Comply with Terms.** Should Respondent fail to comply with any term
28 or condition of this Agreement once the Agreement has been accepted, approved, and adopted by

1 the Board, the IC shall be authorized to immediately suspend Respondent's license to practice
2 medicine in Nevada pending an order to show cause hearing, which will be duly noticed. Failure
3 to comply with the terms of this Agreement, including failure to pay any fines, costs, expenses, or
4 fees owed to the Board, is a failure to comply with an order of the Board, which may result in
5 additional disciplinary action being taken against Respondent. NRS 630.3065(2)(a). Further,
6 Respondent's failure to remit payment to the Board for monies agreed to be paid as a condition of
7 this Agreement may subject Respondent to civil collection efforts. Respondent's compliance with
8 this Agreement or Board order shall be coordinated through the Board's Compliance Officer.

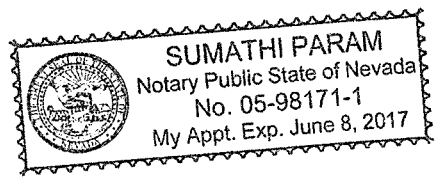
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10 Dated this 24th day of July, 2015.

Dated this 22nd day of July, 2015.

11
12 By: 
13 Alexia M. Emmermann, Esq.
14 Attorney for the Investigative Committee

UNDERSTOOD AND AGREED:
15 By: 
16 Douglas Stewart Lynch, PA-C
17 Respondent

18 STATE OF Nevada)
19) :ss.
20 COUNTY OF Clark)
21 SUBSCRIBED and SWORN to before me
22 this 22nd day of July, 2015.
23 Sumathi Param.
24 _____
25 Notary Public



1 **IT IS HEREBY ORDERED** that the foregoing Settlement Agreement is approved and accepted by the
2 Nevada State Board of Medical Examiners on the 11th day of September 2015, with the final total
3 amount of costs due of \$1,839.69.

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6 Michael J. Fischer, M.D., President
7 NEVADA STATE BOARD OF MEDICAL EXAMINERS
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