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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
MICHELLE L. STACEY, M.D.,
Respondent.**

Case No. 14-29866-1¹

FILED

JUN - 8 2015

**NEVADA STATE BOARD OF
MEDICAL EXAMINERS**

By: *[Signature]*

SETTLEMENT AGREEMENT

The Investigative Committee² (IC) of the Nevada State Board of Medical Examiners (Board) and Michelle L. Stacey, M.D. (Respondent), a licensed physician in Nevada, hereby enter into this Settlement Agreement (Agreement) based on the following:³

A. Background

1. Respondent is a physician licensed by the Board to practice medicine in Nevada since May 17, 2005 (license no. 11436).

2. On June 13, 2014, the IC filed the formal Complaint (Complaint) in this matter charging Respondent with violations of Nevada Revised Statutes (NRS) Chapter 630 and Nevada Administrative Code (NAC) Chapter 630 (collectively Medical Practice Act). In this case, the Complaint alleges three (3) counts of failure to supervise a physician assistant as required by NAC 630.370 subsections (1)(b), (2), and (5), and one (1) count of unprofessional conduct by

¹ In 2012 and 2013, the Board requested Respondent's cooperation related to three separate investigations of a physician assistant. Only one of those investigations named Respondent as a party of interest, which culminated into this case. Respondent received letters of investigation regarding two other matters (investigation nos. 12-13854 and 13-14270); however, Respondent was not named as a party of interest in those matters, and those matters have since been closed.

² In this matter, the Investigative Committee of the Nevada State Board of Medical Examiners is composed of Theodore B. Berndt, M.D., IC Chairman, Valerie J. Clark, BSN, RHU, LUTCF, IC Member, and Michael J. Fischer, M.D., IC Member.

³ All agreements and admissions made by Respondent in this Agreement are solely for final disposition of this matter and any subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, Respondent's agreements and admissions are not intended or made for any other use, such as in the context of another state or federal government regulatory agency proceeding, state or federal civil or criminal proceeding, any state or federal court proceeding, or any credentialing or privileges matter.

1 failing to adequately supervise a physician assistant as required by NAC 630.230(1)(i).

2 3. Respondent was properly served with a copy of the Complaint, and has reviewed
3 the Complaint, understands the Complaint, and has had the opportunity to consult with competent
4 counsel concerning the nature and significance of the Complaint.

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

15 5. Respondent understands that, under the Board's charge to protect consumers by
16 regulating the practice of medicine, the Board may take disciplinary action against Respondent's
17 license, including license probation, license suspension, license revocation, and imposition of
18 administrative fines, as well as any other reasonable requirement or limitation, if the Board
19 concludes that Respondent violated one or more provisions of the Medical Practice Act.

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

27 **B. Terms & Conditions**

28 **NOW, THEREFORE**, in order to resolve this matter, Respondent and the IC hereby

1 agree to the following terms and conditions:

2 **1. Jurisdiction.** Respondent is and, at all times relevant to the Complaint, has been a
3 physician licensed to practice medicine in Nevada subject to the jurisdiction of the Board as set out in
4 the Medical Practice Act. The IC may initiate disciplinary action against a licensee for violating the
5 Board's standards of practice or for engaging in unprofessional conduct. NRS 630.306(2)(b), -(16).

6 **2. Representation by Counsel/Knowing, Willing, and Intelligent Agreement.**
7 Respondent may retain and consult counsel prior to entering into this Agreement at Respondent's own
8 expense. In this matter, Respondent is represented by counsel, Maria Nutile, Esq. Respondent wishes
9 to resolve this matter, as set out in the Complaint, in consultation with Respondent's counsel.
10 Respondent agrees that if representation by counsel in this matter materially changes prior to entering
11 into this Agreement and/or for the duration of this Agreement, that counsel for the IC will be timely
12 notified of the material change. Respondent enters into this Agreement knowingly, willingly, and
13 intelligently, after full consultation with and upon the advice of Respondent's counsel.

14 **3. Waiver of Rights.** In connection with this Agreement, and the associated terms
15 and conditions, Respondent knowingly, willingly, and intelligently waives all rights in connection
16 with this administrative matter. Respondent hereby knowingly, willingly, and intelligently waives
17 all rights arising under the United States Constitution, the Nevada Constitution, the Medical
18 Practice Act, the APA, and any other legal rights that may be available to Respondent or that may
19 apply to Respondent in connection with the administrative proceedings resulting from the
20 Complaint filed in this matter, including defense of the Complaint, adjudication of the allegations
21 set forth in the Complaint, and imposition of any disciplinary actions or sanctions ordered by the
22 Board. Respondent agrees to settle and resolve the allegations of the Complaint as set out by this
23 Agreement without a hearing or any further proceedings, and without the right to judicial review.

24 **4. Acknowledgement of Reasonable Basis to Proceed.** Respondent, without any
25 admission of wrongdoing, agrees that the IC has a reasonable basis agrees that the IC has a
26 reasonable basis to believe that Respondent engaged in conduct that is grounds for discipline
27 pursuant to the Medical Practice Act.

28 **5. Consent to Entry of Order.** In order to resolve this matter without incurring any

1 further costs or the expense associated with a hearing, Respondent hereby agrees that the Board may
2 issue an order finding that Respondent violated the Medical Practice Act by failing to supervise a
3 physician assistant as required by NAC 630.370 subsections (1)(b), (2), and (5), and by engaging in
4 unprofessional conduct in failing to provide adequate supervision of a physician assistant as required
5 by NAC 630.230(1)(i), as set forth in the Complaint. Accordingly, Respondent hereby agrees that:

6 a. Respondent shall be fined \$5,000, with payment due within thirty (30) days
7 of the Board's order;

8 b. The Board shall issue Respondent a public reprimand;

9 c. Within twelve (12) months of the Board's order, Respondent shall complete—
10 and report upon completion—twelve (12) hours of in-person attendance, AMA Category 1 continuing
11 medical education (CME), in addition to Respondent's statutory CME requirements for licensure, on
12 the following topics: supervising physician assistants (6 hours), prescription abuse and overdose (4
13 hours), and practicing outside one's scope of practice (2 hours);

14 d. Respondent voluntarily agrees never to supervise a physician assistant
15 while licensed in Nevada;

16 e. Within thirty (30) days of the Board's order in this matter, Respondent shall
17 pay the Board \$5,215.77, the fees and costs incurred as part of the Board's investigative,
18 administrative, and disciplinary proceedings against Respondent, as authorized by NRS 622.400;

19 f. Respondent shall reimburse the Board, within thirty (30) days of notice by the
20 Board, for any reasonable costs and expenses further incurred by the Board in monitoring
21 Respondent's compliance with this Agreement; and

22 g. The terms of this Agreement shall be reported as required by law.

23 **6. Release From Liability.** In execution of this Agreement, Respondent understands
24 and agrees that the state of Nevada, the Board, and each of its members, staff, counsel,
25 investigators, experts, peer reviewers, committees, panels, hearing officers, consultants, and
26 agents are immune from civil liability for any decision or action taken in good faith in response to
27 information acquired by the Board. NRS 630.364(2). Respondent agrees to release the state of
28 Nevada, the Board, and each of its members, staff, counsel, investigators, experts, peer reviewers,

1 committees, panels, hearing officers, consultants, and agents from any and all manner of actions,
2 causes of action, suits, debts, judgments, executions, claims and demands whatsoever, known and
3 unknown, in law or equity, that Respondent ever had, now has, may have or claim to have, against
4 any or all of the persons, government agencies, or entities named in this paragraph arising out of,
5 or by reason of, this investigation, this Agreement, or the administration of this case.

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

11 Respondent acknowledges that such contacts and communication may be made or
12 conducted ex parte, without notice or opportunity to be heard on Respondent's part until the
13 public Board meeting where this Agreement is discussed, and that such contacts and
14 communications may include, but not be limited to, matters concerning this Agreement, the
15 Complaint, and any and all information of every nature whatsoever related to this matter. The IC
16 agrees that Respondent may appear at the Board meeting where this Agreement is discussed and,
17 if requested, respond to any questions related to this matter.

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

21 **9. Effect of Rejection of Agreement by Board.** In the event the Board does not
22 accept, approve, and adopt this Agreement, this Agreement shall be null, void, and of no force and
23 effect except as to the following agreement regarding adjudications: (1) Respondent agrees that,
24 notwithstanding rejection of this Agreement by the Board, nothing contained in this Agreement
25 and nothing that occurs pursuant to efforts of the IC to seek the Board's acceptance of this
26 Agreement shall disqualify any member of the adjudicating panel of the Board from considering
27 the allegations in the Complaint and from participating in disciplinary proceedings against
28 Respondent, including adjudication of the case; and (2) Respondent further agrees that

1 Respondent shall not seek to disqualify any such member absent evidence of bad faith.

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

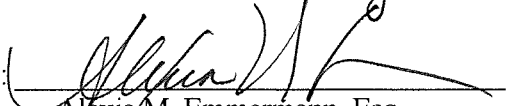
4 **11. Forum Selection Clause.** Respondent agrees that in the event either party is
5 required to seek enforcement of this Agreement in district court, Respondent consents to such
6 jurisdiction, and agrees that exclusive jurisdiction shall be in the Second Judicial District Court,
7 State of Nevada,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

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

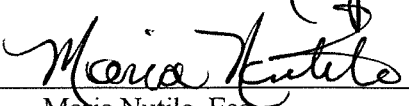
11 **13. Failure to Comply with Terms.** Should Respondent fail to comply with any term
12 or condition of this Agreement once the Agreement has been accepted, approved, and adopted by
13 the Board, the IC shall be authorized to immediately suspend Respondent's license to practice
14 medicine in Nevada pending an order to show cause hearing, which will be duly noticed. Failure
15 to comply with the terms of this Agreement, including failure to pay any fines, costs, expenses, or
16 fees owed to the Board, is a failure to comply with an order of the Board, which may result in
17 additional disciplinary action being taken against Respondent. NRS 630.3065(2)(a). Further,
18 Respondent's failure to remit payment to the Board for monies agreed to be paid as a condition of
19 this Agreement may subject Respondent to civil collection efforts.

20

21 Dated this 10th day of May, 2015.

22 By: 
23 Alexia M. Emmermann, Esq.
24 Attorney for the Investigative Committee

Dated this 1st day of May, 2015.


By: 
23 Maria Nutile, Esq.
24 Attorney for Respondent

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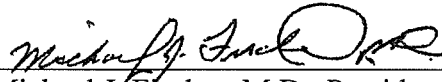
UNDERSTOOD AND AGREED:

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Michelle L. Stacey, M.D., Respondent
28 Dated this 29 day of April, 2015.

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 5th day of June 2015, with the final total amount of
3 costs due of \$5,215.77.

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

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