

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

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6 **In the Matter of Charges and**)
7 **Complaint Against**)
8 **PETER H. PHILANDER, M.D.,**)
9 **Respondent.**)

Case No. 14-12104-1

FILED

MAR - 9 2015

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

By: 

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12 **SETTLEMENT AGREEMENT**

13 **THIS AGREEMENT** is hereby entered into by and between the Investigative Committee
14 (IC) of the Nevada State Board of Medical Examiners (Board), composed of Beverly A. Neyland,
15 M.D., Bashir Chowdhry, M.D., and Sandy Peltyn, in the above-captioned matter, by and through
16 Erin L. Albright, Esq., Board General Counsel and attorney for the IC, and Peter H. Philander,
17 M.D. (Respondent), by and through his counsel, John Savage, Esq., as follows:

18 **WHEREAS**, on June 3, 2014, the Board's IC filed a Complaint in the above-captioned
19 matter charging Respondent with engaging in conduct that is grounds for discipline pursuant to
20 the Nevada Medical Practice Act (MPA), i.e., Chapter 630 of the Nevada Revised Statutes (NRS)
21 and Chapter 630 of the Nevada Administrative Code (NAC), to wit: Count I, one count of failure
22 to maintain timely, legible, accurate and complete medical records relating to the diagnosis,
23 treatment and care of a patient, a violation of NRS 630.3062(1), and Count II, one count of
24 malpractice as defined by NAC 630.040, a violation of NRS 630.301(4); Count III, one count of
25 prohibited professional conduct, a violation of NRS 630.306(2)(b); and Count IV, one count of
26 practicing beyond the scope of training, a violation of NRS 630.306(5) and

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1 **WHEREAS**, Respondent received a copy of the Complaint, reviewed it, understands it,
2 and has had the opportunity to consult with competent counsel concerning the
3 nature and significance of the Complaint. Respondent is fully advised concerning his rights and
4 defenses to the Complaint, as well as the possible sanctions that may be imposed if the Board
5 finds and concludes that he violated one or more provisions of the MPA; and

6 **WHEREAS**, Respondent understands and agrees that he has certain rights under the
7 United States Constitution and the Constitution of the state of Nevada, as well as under the MPA
8 and the Nevada Administrative Procedures Act (NRS Chapter 233B), including, but not limited to,
9 the right to a formal hearing on the charges against him, the right to representation by counsel in
10 the preparation and presentation of his defense, the right to confront and cross-examine the
11 witnesses against him, the right to written findings, conclusions and an order regarding a final
12 decision by the Board, and the right to judicial review of any final decision by the Board that is
13 adverse to him; and

14 **WHEREAS**, Respondent understands and agrees that this Settlement Agreement
15 (Agreement) is entered into by and between himself and the Board's IC, and not with the Board,
16 but that the IC will present this Agreement to the Board for consideration in open session at a
17 meeting duly noticed and scheduled. Respondent understands that the IC shall advocate approval
18 of this Agreement by the Board, but that the Board has the right to decide in its own discretion
19 whether or not to approve this Agreement; and

20 **WHEREAS**, Respondent understands and agrees that if the Board approves the terms,
21 covenants and conditions of this Agreement, then the terms, covenants and conditions enumerated
22 below shall be binding and enforceable upon him.

23 **NOW THEREFORE**, in order to resolve this matter and all charges alleged by the
24 Board's IC in the above-captioned matter, Respondent and the IC hereby agree¹ to the following
25 terms, covenants and conditions:

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27 ¹ All agreements and admissions made by Respondent are solely for final disposition of this matter and any
28 subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, said
agreements and admissions by Respondent 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
other state or federal court proceeding, or any credentialing or privileges matter.

1 **1. Jurisdiction.** Respondent is, and at all times mentioned in the Complaint filed in
2 the above-captioned matter was, a physician licensed to practice medicine in the state of Nevada
3 subject to the jurisdiction of the Board to hear and adjudicate charges of violations of the MPA,
4 and to impose sanctions as provided by the MPA.

5 **2. Representation by Counsel/Knowing, Willing and Intelligent Agreement.**

6 Respondent is represented by above-identified counsel herein, whom Respondent
7 covenants and agrees is fully capable, competent and fully advised in these circumstances, and
8 Respondent further covenants and agrees that he enters into this Agreement knowingly, willingly,
9 and intelligently, after full consultation with and upon advice of above-identified counsel.

10 **3. Waiver of Rights.** In connection with this Agreement, and the terms, covenants

11 and conditions contained herein, Respondent knowingly, willingly and intelligently waives all
12 rights in connection with this Agreement, and the terms, covenants and conditions contained
13 herein, and with the understanding that Respondent knowingly, willingly and intelligently waives
14 all rights arising under or pursuant to the United States Constitution, the constitution of the
15 state of Nevada, the MPA, NRS Chapter 233B, and any other statutory rights that may be
16 available to him or that may apply to him in connection with the proceedings on the Complaint
17 filed herein, the defense of said Complaint, the adjudication of the charges in said Complaint, and
18 the imposition of sanctions.

19 Respondent agrees that the matter of the Complaint herein may be settled and resolved in
20 accordance with this Agreement without a hearing or any further proceedings, and without the
21 right to judicial review.

22 **4. Acknowledgement of Reasonable Basis to Proceed.** Respondent covenants and

23 agrees that the Board's IC has a reasonable basis to believe that Respondent engaged in one or
24 more instances of conduct that is grounds for discipline pursuant to the provisions of the MPA.

25 **5. Consent to Entry of Order.** In order to resolve the matter of these disciplinary

26 proceedings pending against him without incurring any further costs and expense of providing a
27 defense to the Complaint, Respondent hereby agrees that the Board may issue an Order finding that
28 Respondent engaged in conduct that is grounds for discipline pursuant to the MPA, to wit: one

1 count of failure to maintain timely, legible, accurate and complete medical records relating to the
2 diagnosis, treatment and care of a patient, a violation of NRS 630.3062(1), as set forth in Count I
3 of the Complaint, and agrees that:

4 a. Pursuant to NRS 622.400, Respondent shall reimburse the sum of
5 \$4,473.31 the current amount of the fees and costs incurred by the Board to investigate and
6 prosecute this matter, along with the costs to conclude the matter, if any. The costs shall be paid
7 to the Board within sixty (60) days of the Board's acceptance, adoption and approval of this
8 Agreement;

9 b. Respondent shall receive a public reprimand;

10 c. The remaining Counts of the Complaint shall be dismissed; and

11 d. The terms of this Agreement shall be reported as required by law.

12 **6. Release From Liability.** In execution of this Agreement, the Respondent, for
13 himself, his executors, successors and assigns, hereby releases and forever discharges the state of
14 Nevada, the Board, the Nevada Attorney General, and each of their members, agents and
15 employees in their representative capacities, and in their individual capacities, from any and all
16 manner of actions, causes of action, suits, debts, judgments, executions, claims and demands
17 whatsoever, known and unknown, in law or equity, that Respondent ever had, now has, may have
18 or claim to have, against any or all of the persons or entities named in this paragraph arising out
19 of, or by reason of, this investigation, this Agreement or its administration.

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

25 Respondent acknowledges that such contacts and communication may be made or
26 conducted ex parte, without notice or opportunity to be heard on his part or on the part of his
27 counsel, if any, until the public Board meeting where this Agreement is discussed, and that such
28 contacts and communications may include, but not be limited to, matters concerning this

1 Agreement, the Complaint, and any and all information of every nature whatsoever related to the
2 Complaint or the proceedings herein against Respondent. The IC and its counsel agree that
3 Respondent and/or his counsel, if any, may appear at the Board meeting where this Agreement is
4 discussed, and if requested, respond to any questions that may be addressed to the IC or its
5 counsel.

6 **8. Effect of Acceptance of Agreement by Board.** In the event the Board approves,
7 accepts and adopts the terms, covenants and conditions set out in this Agreement, counsel for the
8 IC will cause the Board's order accepting, adopting and approving this Agreement to be entered
9 herein, ordering full compliance with the terms herein and ordering that this case be closed,
10 subject to the provisions in Paragraph 5.

11 **9. Effect of Rejection of Agreement by Board.** In the event the Board does not
12 accept, approve and adopt the terms, covenants and conditions set out in this Agreement, this
13 Agreement shall be null, void, and of no further force and effect except as to the following
14 covenant and agreement regarding disqualification of adjudicating Board panel members.
15 Respondent agrees that, notwithstanding rejection of this Agreement by the Board, nothing
16 contained herein and nothing that occurs pursuant to efforts of the IC or its counsel to seek
17 acceptance and adoption of this Agreement by the Board shall disqualify any member of the
18 adjudicating panel of the Board from considering the charges against Respondent and
19 participating in the disciplinary proceedings in any role, including adjudication of the case.
20 Respondent further agrees that he shall not seek to disqualify any such member absent evidence of
21 bad faith.

22 **10. Binding Effect.** If this Agreement is approved by the Board, Respondent
23 covenants and agrees that this Agreement is a binding and enforceable contract upon Respondent
24 and the Board's IC, which contract may be enforced in a court or tribunal having jurisdiction.

25 **11. Forum Selection Clause.** Respondent covenants and agrees that in the event
26 either party is required to seek enforcement of this Agreement in the district court, he consents to
27 such jurisdiction, and covenants and agrees that exclusive jurisdiction shall be in the
28 Second Judicial District Court of the state of Nevada in and for the county of Washoe.


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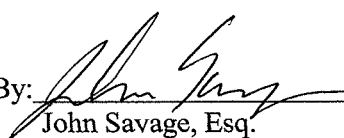
2 **12. Attorneys' Fees and Costs.** Respondent covenants and agrees that in the event an
3 action is commenced in the district court to enforce any provision of this Agreement, the
4 prevailing party shall be entitled to recover costs and reasonable attorneys' fees.

5 **13. Failure to Comply With Terms.** In the event the Board enters its order approving
6 this Agreement, should Respondent fail to comply with any term or condition recited herein, the
7 IC shall be authorized to immediately suspend Respondent's license to practice medicine in the
8 state of Nevada pending an order to show cause hearing, which will be duly noticed.
9 Further, failure to comply with the terms recited herein may result in additional disciplinary action
10 being initiated against Respondent for a violation of an order of the Board in accordance with
11 NRS 630.3065(2)(a). Moreover, the failure of Respondent to reimburse the Board for monies
12 agreed to be paid as a condition of settlement may subject Respondent to civil collection efforts.

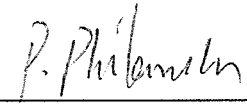
13 Dated this 30th day of January, 2015.

Dated this 23rd day of January, 2015.

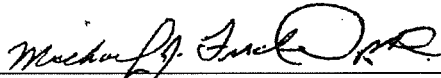
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16 By: 
17 Erin L. Albright, Esq.
18 Attorney for the Investigative Committee

By: 
John Savage, Esq.
Attorney for Respondent

19 UNDERSTOOD AND AGREED:

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21 Peter H. Philander, M.D., Respondent
22 Dated this 16th day of Jan, 2015.
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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 6th day of March 2015, with the final total amount of
3 costs due of \$4,473.31.

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Michael J. Fischer, M.D., President

6 NEVADA STATE BOARD OF MEDICAL EXAMINERS

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