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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
KAREN F. ARCOTTA, M.D.,
Respondent.**

Case No. 16-5972-1

FILED

DEC - 5 2016

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

By: 

SETTLEMENT AGREEMENT

The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board) and Karen F. Arcotta, M.D. (Respondent), a licensed physician in Nevada, represented by Marie Ellerton, Esquire, hereby enter into this Settlement Agreement (Agreement) based on the following:¹

A. Background

1. Respondent is a physician licensed (#4896) by the Board to practice medicine in Nevada.

2. On May 17, 2016, the IC filed a formal Complaint (Complaint) in this matter charging Respondent with one violation of Nevada Revised Statutes (NRS) Chapter 630 and Nevada Administrative Code (NAC) Chapter 630 (collectively, the Medical Practice Act). Specifically, the Complaint alleges one violation of NAC 630.230(1)(i), failure to supervise a physician assistant.

3. Respondent was properly served with a copy of the Complaint, and has reviewed the Complaint, understands the Complaint, and has had the opportunity to consult with above-

¹ All agreements and admissions made by Respondent 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 identified counsel concerning the nature and significance of the Complaint.

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

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

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

23 **B. Terms & Conditions**

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

26 1. **Jurisdiction**. Respondent is, and at all times relevant to the Complaint has been, a
27 physician licensed to practice medicine in Nevada subject to the jurisdiction of the Board as set
28 forth in the Medical Practice Act.

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

2 Respondent understands that she may retain and consult counsel prior to entering into this
3 Agreement at her own expense. Respondent acknowledges that she is represented by counsel,
4 Marie Ellerton, Esq., and wishes to resolve this matter with counsel. Respondent agrees that if
5 representation by counsel in this matter materially changes prior to entering into this Agreement
6 and for the duration of this Agreement, that counsel for the IC will be timely notified of the
7 material change. Respondent agrees that she knowingly, willingly and intelligently enters into this
8 Agreement after full consultation with and upon the advice of her counsel.

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

19 **4. Acknowledgement of Reasonable Basis to Proceed.** Respondent agrees that the
20 IC has a reasonable basis to believe that Respondent engaged in conduct that is grounds for
21 discipline pursuant to the Medical Practice Act.

22 **5. Consent to Entry of Order.** In order to resolve the Complaint pending against
23 Respondent without incurring any further costs or the expense associated with a hearing, Respondent
24 hereby agrees that the Board may issue an order finding that Respondent engaged in conduct that
25 is grounds for discipline pursuant to the Medical Practice Act, to wit: one count of failure to
26 supervise a physician assistant, a violation of NAC 630.230(1)(i).

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1 Accordingly, Respondent hereby agrees that:

2 a. Respondent admits to violating NAC 630.230(1)(i) for her failure to
3 supervise a physician assistant from December 30, 2014 to on or about January 28, 2015, a period
4 of time less than 30 days.

5 b. Respondent shall pay the Board \$2,043.65, the fees and costs incurred as
6 part of the Board's investigative, administrative, and disciplinary proceedings against Respondent,
7 as authorized by NRS 622.400, within 60 days of the Board's acceptance, adoption and approval
8 of this Agreement.

9 c. Respondent shall take three (3) hours of continuing medical education (CME)
10 related to supervision of physician assistants within six (6) months of the date of the Board's
11 acceptance, adoption, and approval of this Agreement. The aforementioned hours of CME shall be in
12 addition to any CME requirements that are regularly imposed upon Respondent as a condition of
13 licensure in the state of Nevada and shall be approved by the Board prior to their completion.

14 d. No Public Letter of Reprimand shall be issued.

15 e. This Agreement shall be reported to the appropriate entities and parties as
16 required by law, including but not limited to, the National Practitioner Data Bank.

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

28 **7. Procedure for Adoption of Agreement.** The IC and counsel for the IC shall

1 recommend approval and adoption of the terms and conditions of this Agreement by the Board in
2 resolution of the Complaint pending against Respondent. In the course of seeking Board
3 acceptance, approval and adoption of this Agreement, counsel for the IC may communicate
4 directly with Board staff and the adjudicating members of the Board.

5 Respondent acknowledges that such contacts and communications may be made or
6 conducted ex parte, without notice or opportunity to be heard on her part until the public Board
7 meeting where this Agreement is discussed, and that such contacts and communications may
8 include, but not be limited to, matters concerning this Agreement, the Complaint, and any and all
9 information of every nature whatsoever related to this matter. The IC and its counsel agree that
10 Respondent may appear at the Board meeting where this Agreement is discussed and, if requested,
11 respond to any questions that may be addressed to the IC or the IC's counsel.

12 **8. Effect of Acceptance of Agreement by Board.** In the event the Board accepts,
13 approves and adopts this Agreement, the Board shall issue a final order, making this Agreement
14 an order of the Board.

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

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

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


1 State of Nevada, Washoe County.


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

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

14
15 Dated this 30 day of NOV, 2016.

Dated this 30th day of November 2016.

16
17 By: 
18 Robert Kilroy, Esq.
Attorney for the Investigative Committee

By: 
Marie Ellerton, Esq.
Attorney for Respondent

19 UNDERSTOOD AND AGREED:
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21 Karen F. Arcotta, M.D., Respondent
22 Dated this 30th day of NOV, 2016.

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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 2nd day of December 2016, with the final total amount
3 of costs due of \$2,043.65.

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5 Michael J. Fischer, M.D., President

6 NEVADA STATE BOARD OF MEDICAL EXAMINERS

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