

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and
Complaint Against
IVAN LEE GOLDSMITH, M.D.,
Respondent.

Case No. 18-8756-1

FILED

JUN 12 2020

NEVADA STATE BOARD OF
MEDICAL EXAMINERS
By: _____

STIPULATION AND ORDER ON SATISFACTION OF TERMS OF PROBATION,
AND ADDITIONAL CONDITIONS

Ivan Lee Goldsmith, M.D., License No. 6116 (Licensee), through his counsel of record, John Hunt, Esq., of Clark Hill PLC, appeared via a Zoom audio meeting before the Nevada State Board of Medical Examiners (Board) at its regularly scheduled meeting on June 5, 2020, requesting a determination that he has satisfied the terms and conditions set forth in Section 5(D) of that Settlement Agreement entered into between Licensee and the Investigative Committee of the Board, and made an Order of the Board on November 30, 2018. Licensee also requested that the Board consider placing additional conditions on his license, as it deemed appropriate. After considering Licensee's request, and based on an accord reached with Licensee at the meeting, and good cause appearing, the Board enters the following Order:

IT IS HEREBY ORDERED that:

- (1) The Board finds that Licensee has satisfied the terms and conditions of his probation as set forth in Section 5(D) of the Settlement Agreement; pursuant to the Settlement Agreement, he remains on probation until December 2, 2020. Accordingly, with all such terms and conditions satisfied, Dr. Goldsmith may file a Physician Application for Status Change to Active. Once that application is completed and the regular conditions for that application are met, Dr. Goldsmith may obtain an active license and may return to practice, with the following conditions, which follow the

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recommendations of certain experts consulted in evaluating Dr. Goldsmith's readiness for practice. Those conditions are:

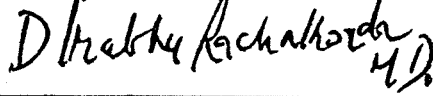
- (a) Dr. Goldsmith shall complete 40 additional hours of continuing medical education (CME) related to proper medical recordkeeping and clinical decision-making, all to the satisfaction of the Board, within 6 months. This requirement shall be in addition to the regular CMEs required for licensure.
- (b) Dr. Goldsmith shall receive individual therapy at least once every two weeks, to continue to address ongoing stressors as he reenters practice, to help him continue to develop coping skills and address other previously identified issues.
- (c) Dr. Goldsmith shall submit to the Board for the next year, quarterly reports apprising the Board of:
 - i. his personal and professional activities and practice plans; and
 - ii. his progress toward addressing the issues described in his evaluations.
- (d) In one year, Dr. Goldsmith shall undergo a follow-up neuro-psychological evaluation, and may see the same practitioner as he saw before, to assess his progress, with a practitioner report submitted to the Board.
- (e) Upon compliance with the foregoing, after one year, Dr. Goldsmith will appear before the Board, at which time the Board will consider lifting these remaining conditions.

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Dated this 12th day of June, 2020.

NEVADA STATE BOARD OF MEDICAL EXAMINERS

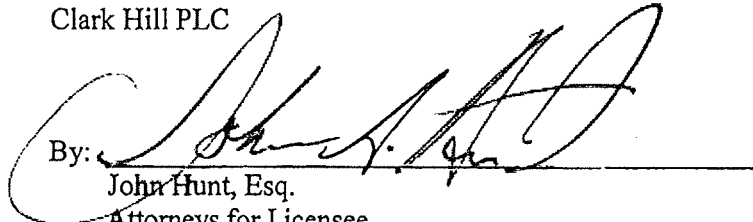


Rachakonda D. Prabhu, M.D., President
Nevada State Board of Medical Examiners

THE UNDERSIGNED HEREBY STIPULATES:

Dated this 11 day of June, 2020.

Clark Hill PLC



By: John Hunt, Esq.
Attorneys for Licensee

Dated this 11th day of June, 2020.



Ivan Lee Goldsmith, M.D., Licensee

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

3 * * * * *

4
5 **In the Matter of Charges and**
6 **Complaint Against**
7 **IVAN LEE GOLDSMITH, M.D.,**
8 **Respondent.**

Case No. 18-8756-1

FILED

DEC - 3 2018

NEVADA STATE BOARD OF
MEDICAL EXAMINERS
By: 

9
10 **SETTLEMENT AGREEMENT**

11 The Investigative Committee (IC) of the Nevada State Board of Medical Examiners
12 (Board), by and through Aaron Bart Fricke, Esq., Deputy General Counsel for the Board and
13 attorney for the IC, and Ivan Lee Goldsmith, M.D. (Respondent), a licensed Physician in Nevada,
14 assisted by his attorney, E. Brent Bryson, Esq., hereby enter into this Settlement Agreement
15 (Agreement) based on the following:¹

16 **A. Background**

17 1. Respondent is a medical doctor currently licensed (License No. 6116) in active status
18 by the Board pursuant to Chapter 630 of the Nevada Revised Statutes (NRS) and Chapter 630 of the
19 Nevada Administrative Code (NAC) (collectively, the Medical Practice Act), to practice medicine in
20 Nevada since August 25, 1990.

21 2. On October 17, 2018, in Case No. 18-8756-1, the IC filed a formal Complaint
22 (Complaint) charging Respondent with violating the Medical Practice Act. Specifically, the
23 Complaint alleges: Count I, violation of NRS 630.306(1)(b)(3) (Engaging in Conduct That
24 Violated Pharmacy Board Regulations); Count II, violation of NRS 630.301(9) (Disreputable
25

26 ¹ All agreements and admissions made by Respondent are solely for final disposition of this matter
27 and any subsequent related administrative proceedings or civil litigation involving the Board and
28 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.

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1 Conduct); Count III, violation of NRS 630.306(1)(r) (Failure to Adequately Supervise a Medical
2 Assistant); Count IV, violation of NRS 630.306(1)(b)(3) (Engaging in Conduct That Violated
3 Pharmacy Board Regulations); Count V, violation of NRS 630.306(1)(b)(2) (Violation of
4 Standards of Practice); Count VI, violation of NRS 630.3062(1)(a) (Failure to Maintain Complete
5 Medical Records); Count VII, violation of NRS 630.306(1)(p) (Unsafe or Unprofessional
6 Conduct); Count VIII, violations of NRS 630.306(c) (Unauthorized Dispensing); Count IX,
7 violations of NRS 630.306(c) (Unauthorized Prescribing); Count X, violation of NRS
8 630.3062(1)(a) (Failure to Maintain Complete Medical Records).

9 3. By reason of the foregoing, Respondent is subject to discipline by the Board as
10 provided in NRS 630.352.

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

14 5. Respondent is hereby advised of his rights regarding this administrative matter, and of
15 his opportunity to defend against the allegations in the Complaint. Specifically, Respondent has
16 certain rights in this administrative matter as set out by the United States Constitution, the Nevada
17 Constitution, the Medical Practice Act, the Nevada Open Meeting Law (OML), which is contained in
18 NRS Chapter 241, and the Nevada Administrative Procedure Act (APA), which is contained in NRS
19 Chapter 233B. These rights include the right to a formal hearing on the allegations in the Complaint,
20 the right to representation by counsel, at his own expense, in the preparation and presentation of his
21 defense, the right to confront and cross-examine the witnesses and evidence against him, the right to
22 written findings of fact, conclusions of law and order reflecting the final decision of the Board, and the
23 right to judicial review of the Board's order, if the decision is adverse to him.

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

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

8 **B. Terms & Conditions**

9 **NOW, THEREFORE**, in order to resolve the matters addressed herein, i.e., the matters
10 with regard to the Complaint, Respondent and the IC hereby agree to the following terms and
11 conditions:

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

15 2. **Representation by Counsel/Knowing, Willing and Intelligent Agreement.**
16 Respondent acknowledges he is represented by counsel, and wishes to resolve the matters
17 addressed herein with said counsel. Respondent agrees that if representation by counsel in this
18 matter materially changes prior to entering into this Agreement and for the duration of this
19 Agreement, that counsel for the IC will be timely notified of the material change. Respondent
20 agrees that he knowingly, willingly and intelligently enters into this Agreement after deciding to
21 have a full consultation with and upon the advice of legal counsel.

22 3. **Waiver of Rights.** In connection with this Agreement, and the associated terms
23 and conditions, Respondent knowingly, willingly and intelligently waives all rights in connection
24 with this administrative matter. Respondent hereby knowingly, willingly and intelligently waives
25 all rights arising under the United States Constitution, the Nevada Constitution, the Medical
26 Practice Act, the OML, the APA, and any other legal rights that may be available to him or that
27 may apply to him in connection with the administrative proceedings resulting from the Complaint
28 filed in this matter, including defense of the Complaint, adjudication of the allegations set forth in

1 the Complaint, and imposition of any disciplinary actions or sanctions ordered by the Board.
2 Respondent agrees to settle and resolve the allegations of the Complaint as set out by this
3 Agreement, without a hearing or any further proceedings and without the right to judicial review.

4 **4. Acknowledgement of Reasonable Basis to Proceed.** Respondent acknowledges
5 that the IC believes it has a reasonable basis to allege that Respondent engaged in conduct that is
6 grounds for discipline pursuant to the Medical Practice Act. The Board acknowledges Respondent
7 is not admitting that the Board's claims/counts as alleged in the Complaint have merit and
8 Respondent is agreeing to resolve this matter to avoid the costs of hearing and potential
9 subsequent litigation. Respondent asserts if this matter were to proceed to hearing, he has
10 evidence, witnesses, expert witness(es) and defenses to the counts/claims alleged in the
11 Complaint, but for the purposes of resolving the matter and for no other purpose, Respondent
12 waives the presentation of evidence, witnesses, expert witnesses, and defenses in order to
13 effectuate this Agreement.

14 **5. Consent to Entry of Order.** In order to resolve this Complaint pending against
15 Respondent, Respondent hereby agrees that the Board may issue an order finding that Respondent
16 engaged in conduct that is grounds for discipline pursuant to the Medical Practice Act. Accordingly,
17 the following terms and conditions are hereby agreed upon:

18 A. While not admitting that the Board's allegations as alleged in Count I have merit,
19 Respondent acknowledges that Nevada State Board of Pharmacy (Pharmacy Board) has entered a
20 final order so finding, and based solely thereon, admits to Count I.

21 B. Respondent admits to Counts V, VI and X.

22 C. Respondent's license to practice medicine in the state of Nevada shall be placed on
23 probation, and his license placed on "Inactive" status immediately upon signing this Agreement
24 until successful completion of the terms set forth in Paragraph D immediately following.

25 D. Respondent's license shall be subject to a term of probation for a period of time not
26 to exceed twenty-four (24) months from the date of the Board's acceptance, adoption and approval
27 of this Agreement (Probationary Period). Respondent must complete the following terms and
28 conditions within the Probationary Period and demonstrate compliance to the good faith

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1 satisfaction of the Board within twenty-four (24) months, or before Respondent resumes the
2 practice of medicine in Nevada during this probationary period, whichever is first; if Respondent
3 fails to demonstrate compliance with the terms and conditions of this Agreement within twenty-
4 four (24) months, or otherwise violates the terms of this Agreement or the Medical Practice Act,
5 then the IC shall be authorized to immediately suspend Respondent's license to practice medicine
6 in Nevada pending an Order To Show Cause Hearing on immediate revocation of his license,
7 which hearing will be duly noticed. The following terms and conditions shall apply during
8 Respondent's probationary period:

- 9 (1) Respondent shall complete the University of San Diego, Physician Assessment and
10 Competency Evaluation Program (PACE), Competency Assessment, and, if
11 recommended by PACE, the Fitness For Duty (FFD) evaluation, and pass all of the
12 above to the satisfaction of the Board;
- 13 (2) Respondent will pay the costs and expenses incurred in the investigation and
14 prosecution of the above-referenced matter within sixty (60) days of the Board's
15 acceptance, adoption and approval of this Agreement, the current amount being
16 \$7,168.05, not including any costs that may be necessary to finalize this Agreement.
- 17 (3) Respondent shall take twenty-two (22) hours of continuing medical education (CME)
18 related to best practices in the prescribing of controlled substances within three (3)
19 months from the date of the Board's acceptance, adoption and approval of this
20 Agreement. The aforementioned hours of CME shall be in addition to any CME
21 requirements that are regularly imposed upon Respondent as a condition of licensure
22 in the state of Nevada and shall be approved by the Board to meet this requirement
23 prior to their completion.
- 24 (4) Respondent shall pay a fine of \$1,000 per count admitted to hereby, consisting of four
25 (4) counts, for a total of \$4,000, within one hundred eighty (180) days of the Board's
26 acceptance, adoption and approval of this Agreement.
- 27 (5) During the probationary period, Respondent shall successfully complete all
28 requirements and comply with all orders, past or future, of the Pharmacy Board,

1 specifically including but limited to, the Pharmacy Board's Order issued on September
2 13, 2018, in its Case Numbered 17-101-CS-S, unless said Order is reversed or
3 modified on Judicial Review, in which case, Respondent shall comply with any
4 subsequent order, if any.

5 (6) During the probationary period, Respondent shall comply with all terms and
6 conditions of any criminal sanctions incurred before or during the period of this
7 agreement, if any, including probation or parole.

8 (7) During the probationary period, Respondent shall not supervise any Physician
9 Assistant, or collaborate with any Advanced Practice Registered Nurse.

10 (8) Within twenty-four (24) months, or before Respondent resumes the practice of
11 medicine in Nevada during this probationary period, whichever is first, Respondent
12 shall appear before the Board at a public meeting and demonstrate compliance with all
13 the terms and conditions of this Agreement, at which time, Respondent may complete
14 an application for a change of status to "Active," and petition the Board to allow him
15 to resume the practice of medicine. Provided that Respondent has fulfilled all the
16 aforementioned terms and conditions as set for in this subsection D, committed no new
17 violations of the Medical Practice Act from the date of this Agreement, and there exist
18 at the time of his application no pending formal complaints or disciplinary actions
19 against Respondent, and Respondent otherwise fulfills the requirements set forth in
20 NRS 630.255, in such case, his application to return to active status shall be granted in
21 good faith.

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

24 F. Respondent shall receive a Public Letter of Reprimand.

25 G. The other counts of the Complaint, and any other claims arising from Board
26 Investigation Nos. 16-16726 and 18-18143, shall be dismissed with prejudice.

27 6. **Release From Liability.** In execution of this Agreement, Respondent understands
28 and agrees that the State of Nevada, the Board, and each of its members, staff, counsel,

1 investigators, experts, peer reviewers, committees, panels, hearing officers, consultants and agents
2 are immune from civil liability for any decision or action taken in good faith in response to
3 information acquired by the Board. NRS 630.364(2)(a). Respondent agrees to release the State of
4 Nevada, the Board, and each of its members, staff, counsel, investigators, experts, peer reviewers,
5 committees, panels, hearing officers, consultants and agents from any and all manner of actions,
6 causes of action, suits, debts, judgments, executions, claims and demands whatsoever, known and
7 unknown, in law or equity, that Respondent ever had, now has, may have or claim to have, against
8 any or all of the persons, government agencies or entities named in this paragraph arising out of,
9 or by reason of, this investigation, this Agreement or the administration of the case referenced
10 herein.

11 7. **Procedure for Adoption of Agreement.** The IC and counsel for the IC shall
12 recommend approval and adoption of the terms and conditions of this Agreement by the Board in
13 resolution of this Complaint. In the course of seeking Board acceptance, approval and adoption of
14 this Agreement, counsel for the IC may communicate directly with the Board staff and the
15 adjudicating members of the Board.

16 Respondent acknowledges that such contacts and communications may be made or
17 conducted ex parte, without notice or opportunity to be heard on his part until the public Board
18 meeting where this Agreement is discussed, and that such contacts and communications may
19 include, but may not be limited to, matters concerning this Agreement, the Complaint and any and
20 all information of every nature whatsoever related to this matter. The IC and its counsel agree that
21 Respondent may appear at the Board meeting where this Agreement is discussed and, if requested,
22 respond to any questions that may be addressed to the IC or the IC's counsel.

23 8. **Effect of Acceptance of Agreement by Board.** In the event the Board accepts,
24 approves and adopts this Agreement, the Board shall issue a final order, making this Agreement
25 an order of the Board, and, pending full compliance with the terms herein, the case shall be closed
26 and the remaining counts of the Complaint shall be dismissed with prejudice.

27 9. **Effect of Rejection of Agreement by Board.** In the event the Board does not
28 accept, approve and adopt this Agreement, this Agreement shall be null, void and of no force and

1 effect except as to the following agreement regarding adjudications: (1) Respondent agrees that,
2 notwithstanding rejection of this Agreement by the Board, nothing contained in this Agreement
3 and nothing that occurs pursuant to efforts of the IC to seek the Board's acceptance of this
4 Agreement shall disqualify any member of the adjudicating panel of the Board from considering
5 this Complaint and from participating in disciplinary proceedings against Respondent, including
6 adjudication of this case; and (2) Respondent further agrees that he shall not seek to disqualify any
7 such member absent evidence of bad faith.

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

10 **11. Forum Selection Clause.** The parties agree that in the event either party is
11 required to seek enforcement of this Agreement in district court, the parties consent to such
12 jurisdiction and agree that exclusive jurisdiction shall be in the Second Judicial District Court,
13 State of Nevada, Washoe County.

14 **12. Attorneys' Fees and Costs.** The parties agree that in the event an action is
15 commenced in district court to enforce any provision of this Agreement, the prevailing party shall
16 be entitled to recover reasonable attorneys' fees and costs.

17 **13. Failure to Comply with Terms.** Should Respondent fail to comply with any term
18 or condition of this Agreement once the Agreement has been accepted, approved and adopted by
19 the Board, the IC shall be authorized to immediately suspend Respondent's license to practice
20 medicine in Nevada pending an Order To Show Cause Hearing on immediate revocation of his
21 license, which will be duly noticed. Failure to comply with the terms of this Agreement, including
22 failure to pay any fines, costs, expenses or fees owed to the Board, is a failure to comply with an
23 order of the Board, which may result in additional disciplinary action being taken against
24 Respondent. NRS 630.3065(2)(a).

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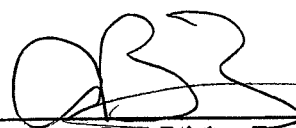
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1 Further, Respondent's failure to remit payment to the Board for monies agreed to be paid as a
2 condition of this Agreement may subject Respondent to civil collection efforts.

3 Dated this 23 day of OCTOBER, 2018.

4 INVESTIGATIVE COMMITTEE OF THE
5 NEVADA STATE BOARD OF MEDICAL EXAMINERS

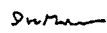
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7 By: 
8 Aaron Bart Fricke, Esq., Deputy General Counsel
9 Attorney for the Investigative Committee

10
11 Dated this 17th day of October, 2018.

12
13 By: 
14 Richard Schonfeld, Esq.,
15 Attorneys for Respondent

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17 Dated this _____ day of _____, 2018.

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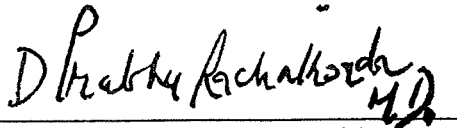
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22 Ivan Lee Goldsmith, M.D., Respondent

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IT IS HEREBY ORDERED that the foregoing Settlement Agreement is approved and accepted by the Nevada State Board of Medical Examiners on the 30th day of November, 2018, with the final total amount of costs due of \$7,168.05.



Rachakonda D. Prabhu, M.D., President
NEVADA STATE BOARD OF MEDICAL EXAMINERS

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

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4 **In the Matter of Charges and**
5 **Complaint Against**
6 **IVAN LEE GOLDSMITH, M.D.,**
7 **Respondent.**

Case No. 18-8756-1

FILED

OCT 17 2018

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

By: 

9 **COMPLAINT**

10 The Investigative Committee¹ (IC) of the Nevada State Board of Medical Examiners (Board)
11 hereby issues this formal Complaint (Complaint) against Ivan Lee Goldsmith, M.D. (Respondent), a
12 physician licensed in Nevada. After investigating this matter, the IC has a reasonable basis to
13 believe that Respondent has violated provisions of Nevada Revised Statutes (NRS) Chapter 630 and
14 Nevada Administrative Code (NAC) Chapter 630 (collectively, the Medical Practice Act). The IC
15 alleges the following facts:

16 **A. Respondent's Violations of Nevada Prescribing Laws, and the Nevada State Board of**
17 **Pharmacy's Disciplinary Action.**

18 1. Respondent is a physician licensed to practice medicine in the State of Nevada
19 (License No. 6116). He has been continuously licensed by the Board since August 25, 1990.

20 2. Respondent held both a Controlled Substance Registration, Certificate
21 No. CS20816, and a Practitioner Dispensing Registration, Certificate No. PD00413, issued by the
22 Nevada State Board of Pharmacy (Pharmacy Board) at the time of the events set forth herein in
23 this Section A.

24 3. On Wednesday, September 5, 2018, in Reno, Nevada, the Pharmacy Board held a
25 formal disciplinary hearing in Pharmacy Board Case No. 17-101-CS-S, pertaining to allegations
26 by the Pharmacy Board against Respondent. Pursuant to the final disciplinary order of the
27

28 ¹ The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board), at the time this formal
Complaint was authorized for filing, was composed of Board members Wayne Hardwick, M.D., Chairman, Mr. M.
Neil Duxbury, and Aury Nagy, M.D.

1 Pharmacy Board, dated September 13, 2018 (Pharmacy Board Order), the Pharmacy Board made
2 formal findings of fact, *inter alia*, as follows:

- 3 a. On December 9, 2013, the Pharmacy Board granted Respondent an account for
4 Internet access to the Nevada Prescription Monitoring Program (PMP) for purposes
5 authorized under federal and state law.
- 6 b. Before receiving access, Respondent signed a Practitioner Certification Statement
7 on December 6, 2013, stating that he understood and agreed under penalty of
8 perjury that he was responsible for all patient information transmitted from his
9 account, that he would treat PMP information as confidential, that he would protect
10 any PMP information in his possession or control in accordance with federal and
11 state laws governing health care information, and that he would safeguard his
12 password and not share his login credentials with any other person.
- 13 c. Stephen Paddock (Paddock) was the perpetrator of the October 1, 2017, Las Vegas
14 mass shooting, and committed suicide immediately after the incident, sometime
15 before midnight.
- 16 d. On or about October 2, 2017, Respondent verified through his office electronic
17 medical records system (EMR) that Paddock was never his patient.
- 18 e. From October 2, 2017, at 9:25 a.m., to October 3, 2017, at 2:20 p.m., Respondent's
19 PMP account was used to query the PMP database five separate times using
20 different search parameters for each query, to access Paddock's confidential patient
21 information, and to obtain patient utilization reports detailing Paddock's
22 prescription-controlled substance utilization history.
- 23 f. The fourth search, conducted on October 3, 2017, at 10:18 a.m., yielded specific
24 prescription information regarding two prescriptions for Paddock filled at
25 Evergreen Drugs in Henderson, Nevada in 2016, and at a Walgreens pharmacy in
26 Reno, Nevada, in 2017.
- 27 g. On October 3, 2017 at 9:00 p.m., the Las Vegas Review-Journal published an
28 article written by reporter Paul Harasim. That article purported to include

- 1 Paddock's confidential patient information, including information about the two
2 prescriptions, which the reporter attributed to and obtained from the PMP.
- 3 h. The Las Vegas Review-Journal updated the article on October 4, 2017, at 10:00
4 a.m., to reference specific prescription data and prescriber information related to
5 Paddock from June 7, 2016, and June 21, 2017.
- 6 i. Respondent's PMP account is the only possible source for the details in the Las
7 Vegas Review-Journal article that are attributed to the PMP, because only the
8 fourth search from his PMP account corresponds to the dates and time frames
9 specified in the article.
- 10 j. On or about November 8, 2017, Respondent, through his counsel, Jacob L. Hafter,
11 Esq., filed an Amended Declaration with the Eighth Judicial District Court of Clark
12 County, Nevada, in Case No. A-17-762877-W, in which Respondent admits to
13 directing his office staff to use his PMP account to query Paddock's confidential
14 patient information and to obtain patient utilization reports on October 2, 2017, and
15 again on October 3, 2017.
- 16 k. In his Amended Declaration, Respondent also admits to routinely allowing his staff
17 to use his PMP account to query the PMP on his behalf.
- 18 4. Pursuant to the Pharmacy Board Order, the Pharmacy Board made conclusions of
19 law, *inter alia*, as follows:
- 20 a. By accessing or directing his staff to access Paddock's confidential data in the PMP
21 database, when Paddock was deceased and never his patient, and by obtaining
22 Paddock's patient utilization report, Respondent performed his duties as the holder
23 of a Nevada Controlled Substance Registration in an incompetent, unskillful or
24 negligent manner and engaged in unprofessional conduct or conduct contrary to the
25 public interest pursuant to NAC 639.945(1)(i). Respondent's Controlled Substance
26 Registration, Certificate of Registration No. CS20816, and Practitioner Dispensing
27 Registration, Certificate No. PD00413, are therefore subject to discipline pursuant
28 to NRS 639.210(4) and NRS 639.255.

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- 1 b. By accessing or directing his staff to access Paddock’s confidential data in the PMP
2 database, when Paddock was deceased and never his patient, and by obtaining
3 Paddock’s patient utilization report, Respondent violated the HIPAA Privacy Rule.
4 His Controlled Substance Registration, Certificate of Registration No. CS20816,
5 and Practitioner Dispensing Registration, Certificate No. PD00413, are therefore
6 subject to discipline pursuant to NRS 639.210(11) and NRS 639.255.
- 7 c. By accessing or directing his staff to access Paddock’s confidential data in the PMP
8 database, when Paddock was deceased and never his patient, and by obtaining
9 Paddock’s patient utilization report, Respondent violated, attempted to violate,
10 assisted or abetted in the violation of, or conspired to violate NRS 453.164(7)
11 and/or the HIPAA Privacy Rule. His Controlled Substance Registration, Certificate
12 of Registration No. CS20816, and Practitioner Dispensing Registration, Certificate
13 No. PD00413, are therefore subject to discipline pursuant to NRS 639.210(12) and
14 NRS 639.255.
- 15 d. By disclosing, or allowing to be disclosed, to the Las Vegas Review-Journal and/or
16 writer Paul Harasim Paddock’s confidential PMP data and patient utilization report,
17 which were accessed only by Respondent’s PMP account on October 2 and
18 October 3, 2017, Respondent violated state and federal law, including the HIPAA
19 Privacy Rule and NRS 639.164(7). His Controlled Substance Registration,
20 Certificate of Registration No. CS20816, and Practitioner Dispensing Registration,
21 Certificate No. PD00413, are therefore subject to discipline pursuant to NRS
22 639.210(4), (11) and (12) as well as NRS 639.255.
- 23 e. By accessing or directing his staff to access Paddock’s confidential data in the PMP
24 database, when Paddock was deceased and never his patient, and by obtaining
25 Paddock’s patient utilization report, Respondent committed an act that would
26 render his Nevada Controlled Substance Registration inconsistent with the public
27 interest pursuant to NRS 453.231, and is subject to discipline pursuant to NRS
28 453.236(l)(d) and NRS 453.241(1).

1 assistant pursuant to the regulations of the Board is an act that constitutes grounds for initiating
2 disciplinary action.

3 18. Pursuant to NAC 630.830, a delegating practitioner retains responsibility for the
4 safety and performance of each task which is delegated to a medical assistant.

5 19. By the misconduct set forth in the Pharmacy Board Order, which order is
6 conclusive evidence of its occurrence, Respondent failed to adequately supervise his medical
7 assistants in their performance of medical tasks.

8 20. By reason of the foregoing, Respondent is subject to discipline by the Nevada State
9 Board of Medical Examiners as provided in NRS 630.352.

10 **B. Respondent's Dispensing of Controlled Substances to Himself.**

11 21. Pursuant to NRS 453.256(7), an individual practitioner may not dispense a
12 substance included in schedule II, III or IV for the practitioner's own personal use except in a
13 medical emergency.

14 22. Pursuant to NAC 453.010(2), a medical "emergency" within the meaning of
15 NRS 453.256 and Nevada State Board of Pharmacy regulations means a situation in which a
16 prescribing practitioner determines that:

- 17 (a) Immediate administration of the controlled substance is
18 necessary for the proper treatment of the patient;
- 19 (b) No appropriate alternative treatment is available, including
20 administration of a drug which is not a controlled substance under
21 schedule II of the Uniform Controlled Substances Act; and
- 22 (c) It is not reasonably possible for the prescribing practitioner to
23 provide a written prescription to be presented to the person
24 dispensing the substance before he or she dispenses it.

25 23. Respondent prescribed and dispensed Phentermine 37.5 mg tablets to himself for
26 his own personal, non-emergency use on December 1, 2014, March 27, 2015, July 27, 2015, and
27 October 19, 2015.

28 24. Phentermine is a Schedule IV controlled substance pursuant to NAC 453.540(5).

29 25. Respondent prescribed and dispensed Phendimetrazine 35 mg tablets to himself for
his own personal, non-emergency use on on June 29, 2015.

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Count VI

NRS 630.3062(1)(a) (Failure to Maintain Complete Medical Records)

37. All of the allegations contained in the above paragraphs are hereby incorporated by reference as though fully set forth herein.

38. NRS 630.3062(1)(a) provides that the failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient is grounds for initiating discipline against a licensee.

39. Respondent failed to maintain complete medical records relating to the diagnosis, treatment and care of himself.

40. By reason of the foregoing, Respondent is subject to discipline by the Board as provided in NRS 630.352.

COUNT VII

NRS 630.306(1)(p) (Unsafe or Unprofessional Conduct)

41. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

42. Engaging in any act that is unsafe or unprofessional conduct in accordance with regulations adopted by the Board is grounds for disciplinary action against a licensee pursuant to NRS 630.306(1)(p).

43. As demonstrated by, but not limited to, the above-outlined facts, Respondent wrote prescriptions and dispensed appetite suppressants to himself in a manner that violated the professional standards for the prescription of appetite suppressants, and the Dietary Guidelines.

44. Respondent's conduct was unsafe and unprofessional.

45. By reason of the foregoing, Respondent is subject to discipline by the Board as provided in NRS 630.352.

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1 C. Respondent's Violation of, and Failure to Ensure Compliance With,
2 Nevada Pharmacy Laws.

3 46. Respondent's physician assistants, Lindsay Hoffman, PA-C, and Adam Luckette,
4 PA-C, dispensed controlled substances and dangerous drugs to patients of Respondent, from
5 Respondent's store of medications, while he was out of the country.

6 47. Respondent's physician assistants, Lindsay Hoffman, PA-C, and Adam Luckette,
7 PA-C, prescribed medication to patients of Respondent, without a bona fide therapeutic
8 relationship with said patients.

9 48. No person may prescribe and dispense controlled substances in Nevada except as
10 authorized by law. NRS 453.226; NRS 453.375(1); NRS 453.377; NRS 639.235(1);
11 NAC 639.742(1), (3) and (4); 21 CFR § 1301.11; 21 CFR § 1306.03.

12 49. NAC 639.742 states in relevant part:

13 1. A practitioner who wishes to dispense controlled substances or
14 dangerous drugs must apply to the Board on an application provided
15 by the Board for a certificate of registration to dispense controlled
substances or dangerous drugs.

16 . . .
17 3. Except as otherwise provided in NRS 639.23277 and
NAC 639.395, the dispensing practitioner and, if applicable, the
owner or owners of the facility, shall ensure that:

- 18 (a) All drugs are ordered by the dispensing practitioner;
19 (b) All drugs are received and accounted for by the
dispensing practitioner;
20 (c) All drugs are stored in a secure, locked room or cabinet
to which the dispensing practitioner has the only key or lock
21 combination;
22 (d) All drugs are dispensed in accordance with
NAC 639.745;
23 (e) No prescription is dispensed to a patient unless the
dispensing practitioner is on-site at the facility;
24 (f) All drugs are dispensed only to the patient personally at
the facility;

25 . . .
26 4. With regard to the filling and dispensing of a prescription at a
facility, only the dispensing practitioner or a dispensing technician
27 may:

- 28 (a) Enter the room or cabinet in which drugs are stored;
(b) Remove drugs from stock;
(c) Count, pour or reconstitute drugs;

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- (d) Place drugs into containers;
- (e) Produce and affix appropriate labels to containers that contain or will contain drugs;
- (f) Fill containers for later use in dispensing drugs; or
- (g) Package or repackage drugs.

50. NAC 639.945(1) provides, in pertinent part, that the following acts or practices by a holder of any license, certificate or registration issued by the Pharmacy Board or any employee of any business holding any such license, certificate or registration are declared to be, specifically but not by way of limitation, unprofessional conduct and conduct contrary to the public interest:

- (i) Performing any of his or her duties as the holder of a license, certificate or registration issued by the Board, or as the owner of a business or an entity licensed by the Board, in an incompetent, unskillful or negligent manner.
- (n) Dispensing a drug as a dispensing practitioner to a patient with whom the dispensing practitioner does not have a bona fide therapeutic relationship.
- (o) Prescribing a drug as a prescribing practitioner to a patient with whom the prescribing practitioner does not have a bona fide therapeutic relationship.

51. NAC 639.945(2) provides that the owner of any business or facility licensed, certified or registered by the Pharmacy Board is responsible for the acts of all personnel in his or her employ.

52. NAC 639.945(3) provides that, for purposes of applying Pharmacy Board regulations, a bona fide therapeutic relationship between the patient and practitioner shall be deemed to exist if the patient was examined in person, electronically or telephonically by the practitioner within the 6 months immediately preceding the date the practitioner dispenses or prescribes a drug to the patient and, as a result of the examination, the practitioner diagnosed a condition for which a given drug therapy is prescribed.

53. Pursuant to NAC 630.370(1)(d)(1)-(2), a supervising physician is responsible for all the medical activities of his or her physician assistant and shall ensure strict compliance with the provisions of the certificate of registration issued to his or her physician assistant by the Pharmacy Board, and Pharmacy Board regulations regarding controlled substances and dangerous drugs.

1 Count VIII

2 **NRS 630.306(1)(c) (Unauthorized Dispensing)**

3 54. All of the allegations contained in the above paragraphs are hereby incorporated by
4 reference as though fully set forth herein.

5 55. Pursuant to NRS 630.306(1)(c), dispensing any controlled substance, or any
6 dangerous drug as defined in chapter 454 of NRS, to others except as authorized by law is grounds
7 for discipline.

8 56. By allowing his physician assistants to dispense controlled substances and
9 dangerous drugs to patients when he was not on-site at his medical facility, Respondent violated
10 NAC 639.742 and NAC 639.945.

11 57. By reason of the foregoing, Respondent is subject to discipline by the Board as
12 provided in NRS 630.352.

13 Count IX

14 **NRS 630.306(1)(c) (Unauthorized Prescribing)**

15 58. All of the allegations contained in the above paragraphs are hereby incorporated by
16 reference as though fully set forth herein.

17 59. Pursuant to NRS 630.306(1)(c), dispensing any controlled substance, or any
18 dangerous drug as defined in chapter 454 of NRS, to others except as authorized by law is grounds
19 for discipline.

20 60. By allowing his physician assistants to prescribe medication to patients of
21 Respondent, without a bona fide therapeutic relationship with said patients, Respondent, pursuant
22 to NAC 630.370(1)(d)(1)-(2), violated NAC 639.945.

23 61. By reason of the foregoing, Respondent is subject to discipline by the Board as
24 provided in NRS 630.352.

25 Count X

26 **NRS 630.3062(1)(a) (Failure to Maintain Complete Medical Records)**

27 62. All of the allegations contained in the above paragraphs are hereby incorporated by
28 reference as though fully set forth herein.

1 63. NRS 630.3062(1)(a) provides that the failure to maintain timely, legible, accurate
2 and complete medical records relating to the diagnosis, treatment and care of a patient is grounds
3 for initiating discipline against a licensee.

4 64. Respondent failed to maintain complete and accurate medical records relating to
5 the diagnosis, treatment and care of the patients to whom Respondent and Respondent's staff
6 dispensed and prescribed controlled substances and dangerous drugs as described in this
7 Section C.

8 65. By reason of the foregoing, Respondent is subject to discipline by the Board as
9 provided in NRS 630.352.

10 **WHEREFORE**, the Investigative Committee prays:

11 1. That the Board give Respondent notice of the charges herein against him and give
12 him notice that he may file an answer to the Complaint herein as set forth in NRS 630.339(2)
13 within twenty (20) days of service of the Complaint;

14 2. That the Board set a time and place for a formal hearing after holding an Early
15 Case Conference pursuant to NRS 630.339(3);

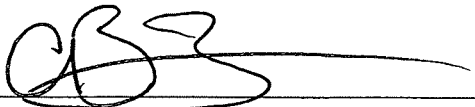
16 3. That the Board determine what sanctions to impose if it determines there has been
17 a violation or violations of the Medical Practice Act committed by Respondent;

18 4. That the Board make, issue and serve on Respondent its findings of fact,
19 conclusions of law and order, in writing, that includes the sanctions imposed; and

20 5. That the Board take such other and further action as may be just and proper in these
21 premises.

22 DATED this 17 day of October, 2018.

23 INVESTIGATIVE COMMITTEE OF THE
24 NEVADA STATE BOARD OF MEDICAL EXAMINERS

25 By: 
26 Aaron Bart Fricke, Esq., Deputy General Counsel
27 Attorney for the Investigative Committee
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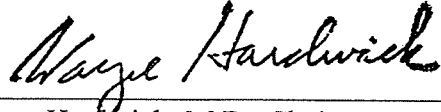
VERIFICATION

STATE OF NEVADA)
 : ss.
COUNTY OF WASHOE)

Wayne Hardwick, M.D., having been duly sworn, hereby deposes and states under penalty of perjury that he is the Chairman of the Investigative Committee of the Nevada State Board of Medical Examiners that authorized the Complaint against the Respondent herein; that he has read the foregoing Complaint; and that based upon information discovered in the course of the investigation into a complaint against Respondent, he believes that the allegations and charges in the foregoing Complaint against Respondent are true, accurate and correct.

DATED this 17th day of October, 2018.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS



Wayne Hardwick, M.D., Chairman