

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 **CATHALINE L. PEARSON, P.A.-C,**)
9 **Respondent.**)

Case No. 12-30027-1

FILED

MAR 11 2013

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 at the time of filing the
15 formal Complaint of Theodore B. Berndt, M.D., Chairman, Valerie J. Clark, BSN, RHU, LUTCF,
16 Member, and Michael J. Fischer, M.D., Member, in the above-captioned matter, by and through its
17 counsel, Erin L. Albright, Esq., Board Deputy General Counsel and attorney for the IC, and
18 Cathaline L. Pearson, P.A.-C. (Respondent), by and through her counsel, Maria Nutile, Esq., as
19 follows:

20 **WHEREAS**, on December 20, 2012, the Board's IC filed a formal Complaint in the
21 above-captioned matter charging Respondent with engaging in conduct that is grounds for
22 discipline pursuant to the Nevada Medical Practice Act (MPA), i.e., Chapter 630 of the
23 Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC), to wit: Count I, one
24 count of performing medical services that were not approved by the supervising physician, a
25 violation of NAC 630.380(1)(d); Count II, one violation of engaging in any sexual activity with a
26 patient who is currently being treated by the practitioner, a violation of NRS 630.301(5); and
27 Count III, one violation of failing to maintain timely, legible, accurate and complete medical

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1 records relating to the diagnosis, treatment and care of a patient, a violation of NRS 630.3062(1);
2 and

3 **WHEREAS**, Respondent received a copy of the formal Complaint, reviewed it,
4 understands it, and consulted with competent counsel, Maria Nutile, Esq., concerning the nature
5 and significance of the formal Complaint. Respondent is fully advised concerning her rights and
6 defenses to the formal Complaint, as well as the possible sanctions that may be imposed if the
7 Board finds and concludes that she violated one or more provisions of the
8 MPA; and

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

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

23 **WHEREAS**, Respondent understands and agrees that if the Board approves the terms,
24 covenants and conditions of this Agreement, then the terms, covenants and conditions enumerated
25 below shall be binding and enforceable upon her.

26 **NOW THEREFORE**, in order to resolve this matter and all charges alleged by the
27 Board's IC in the above-captioned matter, Respondent and the IC hereby agree to the following
28 terms, covenants and conditions:

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

5 **2. Representation by Counsel/Knowing, Willing and Intelligent Agreement.**
6 Respondent is represented by counsel herein, whom Respondent covenants and agrees is
7 fully capable, competent and fully advised in these circumstances, and Respondent further
8 covenants and agrees that she enters into this Agreement knowingly, willingly, and intelligently
9 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, with the
12 advice of above-identified counsel, waives all rights in connection with this Agreement, and the
13 terms, covenants and conditions contained herein, and with the understanding that Respondent
14 knowingly, willingly and intelligently waives all rights arising under or pursuant to the
15 United States Constitution, the constitution of the state of Nevada, the MPA, NRS Chapter 233B,
16 and any other statutory rights that may be available to her or that may apply to her in connection
17 with the proceedings on the formal Complaint filed herein, the defense of said formal Complaint,
18 the adjudication of the charges in said formal Complaint, and the imposition of sanctions.

19 Respondent agrees that the matter of the formal Complaint herein may be settled and
20 resolved in accordance with this Agreement without a hearing or any further proceedings, and
21 without the 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 her without incurring any further costs and expense of providing a
27 defense to the formal Complaint, Respondent hereby agrees that the Board may issue an Order

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1 finding that Respondent engaged in conduct that is grounds for discipline pursuant to the
2 MPA, and agrees that:

3 a. The Board may find Respondent engaged in conduct that is grounds for
4 discipline pursuant to the MPA, to wit: one count of performing medical services that were not
5 approved by the supervising physician, a violation of NAC 630.380(1)(d), as set forth in Count I
6 of the formal Complaint, and one count of failing to maintain timely, legible, accurate and
7 complete medical records relating to the diagnosis, treatment and care of a patient, a violation of
8 NRS 630.3062(1), as set forth in Count III of the formal Complaint;

9 b. Pursuant to NRS 622.400, Respondent shall reimburse the sum of \$814.34,
10 the current amount of the costs incurred by the Board to investigate and prosecute this matter,
11 along with the costs to conclude the matter, if any. The costs shall be paid to the Board within
12 sixty (60) days of the Board's acceptance, adoption and approval of this Agreement;

13 c. Respondent shall obtain and maintain all appropriate state and federal
14 registrations required to provide professional services at all locations at which she practices;

15 d. Respondent shall personally assess all patients prior to prescribing,
16 administering or dispensing any dangerous drug or controlled substance;

17 e. Respondent shall maintain proper medical records for all patients;

18 f. Respondent shall ensure that dangerous drugs and controlled substances are
19 stored and accessed in accordance with federal and state laws;

20 g. Respondent shall provide a copy of this Agreement to each of her
21 supervising physicians and provide proof of such to the Board within thirty (30) days of the
22 Board's acceptance, adoption and approval of this Agreement; and

23 h. Count II of the formal Complaint shall be dismissed.

24 **6. Release From Liability.** In execution of this Agreement, the Respondent, for
25 herself, her executors, successors and assigns, hereby releases and forever discharges the state of
26 Nevada, the Board, the Nevada Attorney General, and each of their members, agents and
27 employees in their representative capacities, and in their individual capacities, from any and all

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

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

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

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

24 **9. Effect of Rejection of Agreement by Board.** In the event the Board does not
25 accept, approve and adopt the terms, covenants and conditions set out in this Agreement, this
26 Agreement shall be null, void, and of no further force and effect except as to the following
27 covenant and agreement regarding disqualification of adjudicating Board panel members.
28 Respondent agrees that, notwithstanding rejection of this Agreement by the Board, nothing

1 contained herein and nothing that occurs pursuant to efforts of the IC or its counsel to seek
2 acceptance and adoption of this Agreement by the Board shall disqualify any member of the
3 adjudicating panel of the Board from considering the charges against Respondent and participating
4 in the disciplinary proceeding in any role, including adjudication of the case. Respondent further
5 agrees that she shall not seek to disqualify any such member absent evidence of bad faith.

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

9 **11. Forum Selection Clause.** Respondent covenants and agrees that in the event either
10 party is required to seek enforcement of this Agreement in the district court, she consents to such
11 jurisdiction, and covenants and agrees that exclusive jurisdiction shall be in the
12 Second Judicial District Court of the state of Nevada in and for the County of Washoe.

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

16 **13. Failure to Comply With Terms.** In the event the Board enters its order accepting,
17 approving and adopting this Agreement, should Respondent fail to comply with any term or
18 condition recited herein, the Board shall be authorized to immediately suspend Respondent's
19 license to practice medicine in the state of Nevada pending an order to show cause hearing, which
20 will be duly noticed and scheduled. Further, failure to comply with the terms recited herein may
21 result in additional disciplinary action being initiated against Respondent for a violation of an

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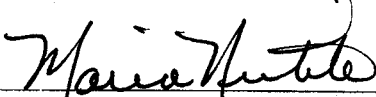
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Order of the Board in accordance with NRS 630.3065(2)(a). Moreover, the failure of Respondent to reimburse the Board for monies agreed to be paid as a condition of settlement may subject Respondent to civil collection efforts.

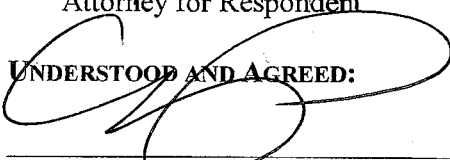
Dated this 13th day of February, 2013.

Dated this 7 day of February, 2013.

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

By: 
Maria Nutile, Esq.
Attorney for Respondent

UNDERSTOOD AND AGREED:


Cathaline L. Pearson, P.A.-C, Respondent
Dated this 7 day of 2, 2013.

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 8th day of March 2013, with the final total amount of
3 costs due of \$814.34.

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6 Benjamin J. Rodriguez, M.D., President
7 NEVADA STATE BOARD OF MEDICAL EXAMINERS
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