

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

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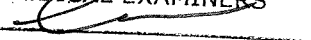
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6 **In The Matter of Charges and**)
7 **Complaint Against**)
8 **GARY LaTOURETTE, M.D.,**)
9 **Respondent.**)

Case No. 12-4399-1

FILED

SEP 10 2018

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
15 Benjamin J. Rodriguez, M.D., Chairman, Beverly A. Neyland, M.D., Member, and
16 Ms. Donna A. Ruthe, Member, by and through, Erin Albright, Esq., Board General Counsel and
17 Attorney for the IC, and Gary LaTourette, M.D. (Respondent), by and through his counsel,
18 Patricia Egan Daehnke, as follows:

19 **WHEREAS**, on May 8, 2012, the Board's IC filed a formal Complaint in the
20 above-captioned matter charging Respondent with engaging in conduct that is grounds for
21 discipline pursuant to the Nevada Medical Practice Act (MPA), Chapter 630 of the
22 Nevada Revised Statutes (NRS) and Chapter 630 of the Nevada Administrative Code (NAC), to
23 wit: Count I, one count of malpractice, the failure of a physician, in treating a patient, to use the
24 reasonable care, skill, or knowledge ordinarily used under similar circumstances, as defined by
25 Nevada Administrative Code (NAC) 630.040, a violation of NRS 630.301(4); and, Count II, one
26 count of failure to maintain timely, legible, accurate and complete medical records relating to the
27 diagnosis, treatment and care of a patient, a violation of NRS 630.3062(1);

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1 **WHEREAS**, Respondent has received a copy of the formal Complaint, reviewed it,
2 understands it, and has had ample opportunity to consult with his counsel concerning the nature
3 and significance of the formal Complaint. Respondent is fully aware concerning his rights and
4 defenses to the formal Complaint, as well as the possible sanctions that may be imposed if the
5 Board finds and concludes that he has engaged in conduct that is grounds for discipline pursuant to
6 the MPA;

7 **WHEREAS**, Respondent understands and agrees that this Settlement Agreement
8 (Agreement) is entered into by and between him and the Board's IC, and not with the Board, but
9 that the IC will present this Agreement to the Board for consideration in open session at a meeting
10 duly noticed and scheduled. Respondent understands that the IC shall advocate approval of this
11 Agreement by the Board, but that the Board has the right to decide in its own discretion whether or
12 not to approve this Agreement; and,

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

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

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

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

24 Respondent is represented by legal counsel in this matter and has had ample opportunity to
25 review this Agreement, the formal Complaint filed in this matter and the related factual basis with
26 said legal counsel, Patricia Egan Daehnke. Respondent covenants and agrees that he enters into
27 this Agreement knowingly, willingly and intelligently in order to bring this matter to a conclusion.

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1 **3. Waiver of Rights.** Respondent waives all rights in connection with this
2 Agreement, and the terms, covenants and conditions contained herein, and with the understanding
3 that Respondent knowingly, willingly and intelligently waives all rights arising under or pursuant
4 to the United States Constitution, the constitution of the state of Nevada, the MPA,
5 NRS Chapter 233B, and any other statutory rights that may be available to him or that may apply
6 to him in connection with the proceedings on the formal Complaint filed herein, the defense of
7 said formal Complaint and the adjudication of the charges in said formal Complaint.

8 Respondent agrees that the matter of the formal Complaint herein may be settled and
9 resolved in accordance with this Agreement without a hearing or any further proceedings, and
10 without the right to judicial review. In the event this Agreement is not approved by the Board, this
11 Agreement shall have no force and effect and shall be *void ab initio*, and Respondent shall have all
12 rights arising under or pursuant to the United States Constitution, the constitution of the state of
13 Nevada, the MPA, NRS Chapter 233B, and any other statutory rights that may be available to him
14 or that may apply to him in connection with the proceeding on the formal Complaint filed herein.

15 **4. Consent to Entry of Order.** Respondent concedes only that the Board has
16 sufficient evidence to proceed with its formal Complaint against him, but does not concede or
17 admit to such allegations, which he expressly denies, and which, but for his desire to reach this
18 compromise, he would contest at the formal hearing of this matter by competent expert medical
19 testimony including his own. Accordingly, in order to resolve the matter without incurring further
20 costs and expense of providing a defense to the formal Complaint or to any other further amended
21 complaint, and in exchange for the waiver of the Respondent's foregoing rights, Respondent has
22 entered into this Agreement¹, and agrees that:

23 a. The Board may find that Respondent engaged in conduct that is grounds for
24 discipline pursuant to the MPA, to wit: failure to maintain timely, legible, accurate and complete
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27 ¹ Any and all admissions made by Respondent are solely for final disposition of this matter and any subsequent related
28 administrative proceedings or civil litigation involving the Board and Respondent. Therefore, said 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 court proceeding, or any other state or federal court
proceeding, or any credentialing or privileges matter.

1 medical records relating to the diagnosis, treatment and care of a patient, a violation of
2 NRS 630.3062(1), as set forth in Count II of the formal Complaint;

3 b. Respondent shall receive a public reprimand in connection with Count II;

4 c. Pursuant to NRS 622.400, Respondent shall reimburse the Board the sum of
5 \$2,833.40, the current amount of the costs incurred by the Board to investigate and prosecute this
6 matter, along with the costs to conclude the matter, if any. The costs shall be paid to the
7 Board within thirty (30) days of the Board's acceptance and approval of this Agreement;

8 d. Count I shall be dismissed; and,

9 e. The terms of this Agreement shall be reported as required by law.

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

18 **6. Procedure for Adoption of Agreement.** The IC and counsel for the IC shall
19 recommend approval and adoption of the terms, covenants and conditions contained herein by the
20 Board in resolution of the formal Complaint pending herein against Respondent. In the course of
21 seeking Board approval, adoption and/or acceptance of this Agreement, counsel for the IC may
22 communicate directly with the Board staff and members of the panel of the Board who would
23 adjudicate this case if it were to go to hearing.

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

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

5 Respondent and the IC expressly agree that the IC will not take this settlement agreement
6 to the Board until after the dismissal of the case titled Nevada Capital Insurance Company, et
7 al. v. Gary J. LaTourette, M.D., Eighth Judicial District Court case A626441. In exchange for
8 this consideration, Respondent will not make any challenges in this matter regarding laches or
9 delay pertaining to the formal Complaint filed herein.

10 7. **Effect of Acceptance of Agreement by Board.** In the event the Board approves,
11 accepts and adopts the terms, covenants and conditions set out in this Agreement, counsel for the
12 IC will cause to be entered herein the Board's order accepting, adopting and approving this
13 Settlement Agreement, ordering full compliance with the terms herein and ordering that this case
14 be closed, subject to the provisions in Paragraph 4.

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

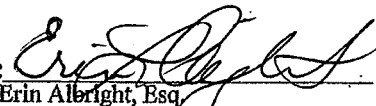
25 9. **Binding Effect.** If this Agreement is approved by the Board, Respondent
26 covenants and agrees that this Agreement is a binding and enforceable contract upon Respondent
27 and the Board's IC which contract may be enforced in a court or tribunal having jurisdiction.
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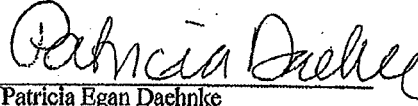
1 **10. Forum Selection Clause.** Respondent covenants and agrees that in the event either
2 party is required to seek enforcement of this Agreement in the district court, he consents to such
3 jurisdiction, and covenants and agrees that exclusive jurisdiction shall be in the
4 Second Judicial District Court of the state of Nevada in and for the county of Washoe.

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

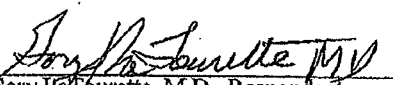
8 **12. Failure to Comply With Terms.** In the event the Board enters its order approving
9 this Agreement, should Respondent fail to comply with any term or condition recited herein, the
10 Board shall be authorized to immediately suspend Respondent's license to practice medicine in the
11 state of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

16 Dated this 3 day of December 2014. Dated this 22 day of December 2014.

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19 By: 
20 Erin Albright, Esq.
21 Attorney for the Investigative Committee

By: 
Patricia Egan Daehnke
Attorney for Respondent

22 UNDERSTOOD AND AGREED:

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24 
25 Gary LaJourette, M.D., Respondent

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
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Reno, Nevada 89521
(775) 688-2559

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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 7th day of September, 2018, with the final total amount of costs due of \$2,833.40.



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