

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

3 \* \* \* \* \*

4 **In the Matter of Charges and**  
5 **Complaint Against**  
6 **SETH H. WITTNER, PA,**  
7 **Respondent.**

Case No. 19-30184-1

**FILED**

**MAR 29 2019**

NEVADA STATE BOARD OF  
MEDICAL EXAMINERS  
By: 

8  
9 **COMPLAINT**

10 The Investigative Committee<sup>1</sup> (IC) of the Nevada State Board of Medical Examiners  
11 (Board), by and through Donald K. White, Esq., Deputy General Counsel and attorney for the IC,  
12 having a reasonable basis to believe that Seth H. Wittner, PA (Respondent) violated the provisions  
13 of Nevada Revised Statutes (NRS) Chapter 630 and Nevada Administrative Code (NAC) Chapter  
14 630 (collectively, the Medical Practice Act), hereby issues its Complaint, stating the IC's charges  
15 and allegations as follows:

16 1. Respondent was, at all times relevant to this Complaint, a physician assistant  
17 licensed to practice medicine in the State of Nevada (License No. PA903), and his license is  
18 currently expired. He was initially licensed by the Board on February 23, 2005.

19 **A. Respondent's Criminal Conduct**

20 2. Pursuant to an "Amended Judgment In A Criminal Case" under 18 U.S.C. §  
21 2252A(a)(5)(B) filed on July 3, 2017 (hereinafter, the "Amended Judgment"), a true and correct  
22 copy of which is attached hereto as Exhibit 1 and incorporated herein by this reference, in the U.S.  
23 District Court for the State of Nevada, in Criminal Case No. 2:17-cr-00005 KJD-NJK, entitled  
24 "United States of America v. Seth Wittner" (hereinafter, the "Federal Case"), Respondent was  
25 adjudged guilty to one count of Possession of Child Pornography and sentenced.

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28 <sup>1</sup> The Investigative Committee of the Nevada State Board of Medical Examiners, at the time the filing of this  
Complaint was approved, was composed of Wayne Hardwick, M.D., Mr. M. Neil Duxbury, and Aury Nagy, M.D.



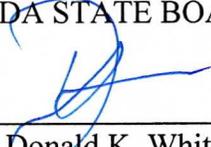
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**WHEREFORE**, the Investigative Committee prays:

1. That the Board give Respondent notice of the charges herein against him and give him notice that he may file an answer to the Complaint herein as set forth in NRS 630.339(2) within twenty (20) days of service of the Complaint;
2. That the Board set a time and place for a formal hearing after holding an Early Case Conference pursuant to NRS 630.339(3);
3. That the Board determine what sanctions to impose if it determines there has been a violation or violations of the Medical Practice Act committed by Respondent;
4. That the Board make, issue and serve on Respondent its findings of fact, conclusions of law and order, in writing, that includes the sanctions imposed; and
5. That the Board take such other and further action as may be just and proper in these premises.

DATED this 29 day of March, 2019.

INVESTIGATIVE COMMITTEE OF THE  
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By:   
Donald K. White, Esq., Deputy General Counsel  
Attorney for the Investigative Committee

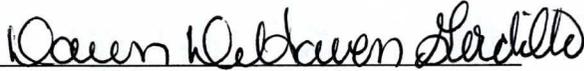


**CERTIFICATE OF MAILING**

I hereby certify that I am employed by Nevada State Board of Medical Examiners and that on 1st day of April, 2019; I served a filed copy of the COMPLAINT (19-30184-1), via USPS e-certified return receipt mail to the following:

Seth Wittner 53922-048  
FCI Fort Dix  
Federal Correctional Institution  
P.O. Box 2000  
Joint Base MDL, NJ 08640

Dated this 1st day of April, 2019.



Dawn DeHaven Gordillo  
Legal Assistant

# EXHIBIT 1



DEFENDANT: SETH WITTNER  
CASE NUMBER: 2:17-cr-00005-KJD-NJK

### IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of :

Defendant is sentenced to a term of 78 months.

The court makes the following recommendations to the Bureau of Prisons:

The Court recommends the Defendant be permitted to serve his term of incarceration at FCI Fort Devens, Massachusetts or a facility as close to there as possible.

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at \_\_\_\_\_  a.m.  p.m. on \_\_\_\_\_ .

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 12 p.m. on 9/22/2017 .

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

### RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_

at \_\_\_\_\_ with a certified copy of this judgment.

UNITED STATES MARSHAL

By \_\_\_\_\_

DEPUTY UNITED STATES MARSHAL

DEFENDANT: SETH WITTNER

CASE NUMBER: 2:17-cr-00005-KJD-NJK

**SUPERVISED RELEASE**Upon release from imprisonment, you will be on supervised release for a term of : TWENTY (20) YEARS.**MANDATORY CONDITIONS**

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court, not to exceed 104 tests annually.  
 The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4.  You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
5.  You must comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
6.  You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

DEFENDANT: SETH WITTNER  
CASE NUMBER: 2:17-cr-00005-KJD-NJK

### STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

### U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: [www.uscourts.gov](http://www.uscourts.gov).

Defendant's Signature \_\_\_\_\_

Date \_\_\_\_\_

DEFENDANT: SETH WITTNER  
CASE NUMBER: 2:17-cr-00005-KJD-NJK

### SPECIAL CONDITIONS OF SUPERVISION

1. Pornography Prohibition - You shall not possess, own, use, view, or read any material depicting and/or describing “sexually explicit conduct” involving children, as defined by 18 U.S.C. §2256(2), or “actual sexually explicit conduct” involving adults, as defined by 18 U.S.C. §2257(h)(1). This prohibition includes, but is not limited to, computer images, pictures, photographs, books, writings, drawings, videos, or video games. The definition under 18 U.S.C. §2256(2) means actual or simulated (a) sexual intercourse, including genital-genital, oral-genital, or oral-anal, whether between the same or opposite sex; (b) bestiality; (c) masturbation; (d) sadistic or masochistic abuse; or (e) lascivious exhibition of the genitals or pubic area of any person. The definition under 18 U.S.C. §2257(h)(1) means actual, but not simulated, conduct as defined in clauses (a)-(e) above. Furthermore, you shall not patronize any place where the primary purpose is related to such material or entertainment. This condition does not apply to materials related to a collateral attack or use with a purpose of court mandated treatment.

2. No Contact with Minors - You shall not associate with children under the age of 18 without the consent of a parent or guardian who is aware of the nature of your background and offense conduct. Furthermore, the association shall only occur in the presence of a responsible adult who is also aware of the nature of your background and offense conduct. The consent and notification shall be confirmed and approved by the probation officer in advance. You shall not loiter within 100 feet of places primarily used by children under the age of 18. This includes, but is not limited to, school yards, playgrounds, arcades, public swimming pools, water parks, and day care centers. You shall not engage in any occupation, either paid or volunteer, that caters primarily to known persons under the age of 18.

3. Computer Restriction and Monitoring - You shall keep the probation officer accurately informed of all computers and computer related digital devices of equipment with memory and/or wireless capabilities that you own, use, possess or have access to. This includes, but is not limited to desktop, laptop, and tablet computers, smart phones, cameras, digital readers, and thumb drives. You shall provide to the probation officer all device and program passwords and internet service provider information upon request. You shall consent to the installation of any hardware or software systems on any computer or computer related digital device, to monitor the use of said equipment, at the direction of the probation officer; and you agree not to tamper with such hardware or software and not install or use any software programs designed to hide, alter, or delete your computer activities. Furthermore, you shall consent to the inspection, imaging, copying of data, or removal of any device to ensure compliance with conditions.

4. Notice to Employer of Computer Restriction - You shall consent to third-party disclosure to any employer, or potential employer, concerning any computer related restrictions that are imposed upon you. This includes activities in which you are acting as a technician, advisor, or consultant with or without any monetary gain or other compensation.

5. Pre-approved Residence - Your residence shall be pre-approved by the probation officer. You shall not reside in a location that has direct view of places such as school yards, parks, public swimming pools, recreational centers, playgrounds, day care or youth centers, video arcade facilities, or other places that are primarily used by children under the age of 18.

6. Warrantless Search - You shall submit your person, property, residence, place of business and vehicle under your control to a search, conducted by the United States probation officer or any authorized person under the immediate and personal supervision of the probation officer, at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of supervision; failure to submit to a search may be grounds for revocation; the defendant shall inform any other residents that the premises may be subject to a search pursuant to this condition.

7. Sex Offender Treatment - You shall attend, cooperate with, and actively participate in a sex offender treatment program, which may include polygraph examinations, as approved and directed by the probation officer, and as recommended by the assigned treatment provider.

Note: A written statement of the conditions of release was provided to the defendant by the Probation Officer in open court at the time of sentencing.

DEFENDANT: **SETH WITTNER**  
 CASE NUMBER: **2:17-cr-00005-KJD-NJK**

**CRIMINAL MONETARY PENALTIES**

The defendant must pay the following total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>JVTA Assessment*</u>	<u>Fine</u>	<u>Restitution</u>
<b>TOTALS</b>	\$ 100.00	\$ 5,000.00	\$ <b>WAIVED</b>	\$ 3,000.00 <i>(see attached Restitution List)</i>

- The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.
- The defendant shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss**</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Clerk of the Court Attention: Finance Case: 2:17-cr-00005-KJD-NJK 333 Las Vegas Blvd. South Room 1334, Las Vegas, NV 8910	\$5,100.00		
Carol Hepburn in trust for Vicky 200 First Avenue West, Ste. 550 Seattle, WA 89119		\$3,000.00	
<b>TOTALS</b>	\$ 5,100.00	\$ 3,000.00	

- Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_
- The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- The court determined that the defendant does not have the ability to pay interest, and it is ordered that:
  - the interest requirement is waived for  fine  restitution.
  - the interest requirement for the  fine  restitution is modified as follows:

\* Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.  
 \*\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: SETH WITTNER  
CASE NUMBER: 2:17-cr-00005-KJD-NJK

### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

- A  Lump sum payment of \$ 8,100.00 due immediately, balance due
  - not later than \_\_\_\_\_, or
  - in accordance with  C,  D,  E, or  F below; or
- B  Payment to begin immediately (may be combined with  C,  D, or  F below); or
- C  Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D  Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E  Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F  Special instructions regarding the payment of criminal monetary penalties:  
Any unpaid balance shall be paid at a monthly rate of not less than 10% of any income earned during incarceration and/or gross income while on supervision, subject to adjustment by the Court based upon ability to pay.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

The defendant shall pay the cost of prosecution.

The defendant shall pay the following court cost(s):

The defendant shall forfeit the defendant's interest in the following property to the United States:

\*Final Order of Forfeiture attached.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) JVT A assessment, (8) penalties, and (9) costs, including cost of prosecution and court costs.

**U.S. v. Seth Wittner**  
**2:17-CR-00005-KJD-NJK**  
**Restitution List**

Carol Hepburn in trust for Vicky 200 First Avenue West, Ste 550 Seattle, WA 98119	\$ 3,000.00
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<b>Total Restitution</b>	<b>\$ 3,000.00</b>
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1 This Court finds no petitions are pending with regard to the property named herein and  
2 the time for presenting such petitions has expired.

3 THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that all  
4 right, title, and interest in the property hereinafter described is condemned, forfeited, and vested  
5 in the United States of America pursuant to Fed. R. Crim. P. 32.2(b)(4)(A) and (B); Fed. R.  
6 Crim. P. 32.2(c)(2); Title 18, United States Code, Section 2253(a)(1) and (a)(3); and Title 21,  
7 United States Code, Section 853(n)(7) and shall be disposed of according to law:

- 8 1. Apple All In One, S/N WQ0272ZCDAS; and
- 9 2. WD External Hard Disk Drive, S/N WX41AA3F9787

10 (all of which constitutes property).

11 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that any and all forfeited  
12 funds, including but not limited to, currency, currency equivalents, certificates of deposit, as well  
13 as any income derived as a result of the United States of America's management of any property  
14 forfeited herein, and the proceeds from the sale of any forfeited property shall be disposed of  
15 according to law.

16 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Clerk send copies  
17 of this Order to all counsel of record.

18 DATED this 20<sup>th</sup> day of June, 2017.

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UNITED STATES DISTRICT JUDGE