State-Wide Integration

December 4, 2019

1

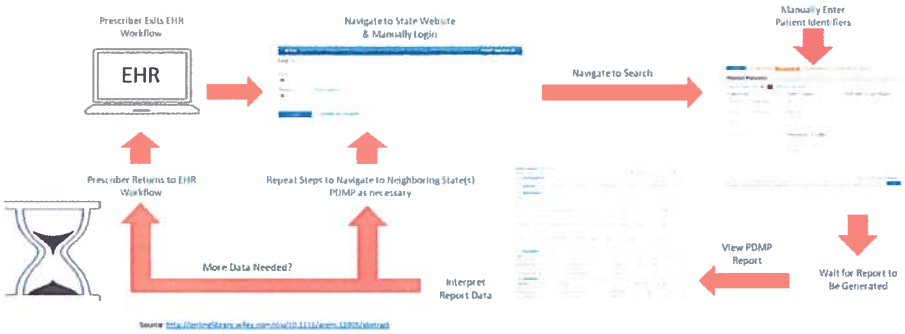
State-wide Integration

- State-wide integration launched Feb. 11, 2019 in partnership with DHHS.
- Integrates access to the PMP into each practitioner's/clinic's internal EMR system.
- PMP data will present as a tab within each practitioner's internal EMR system.
- Eliminates the need for separate log-ins.
- Goal is to make integration available to all Nevada practitioners but it is not mandatory to integrate the PMP into the EMR. Providers will still be able to sign into the PMP to review patient PMP reports.

2

APPRISS HEALTH

Prescriber Access Workflow Is Cumbersome



3

APPRISS HEALTH

What Prescribers Need: EHR Integration

4

Integration Update

Status as of 12/03/2019	Quantity
Integration Request Forms Received	168
In-Production Healthcare Entities	47

5

Agenda Item 22 E

November 21, 2019

Dave Wuest
Executive Secretary
Nevada State Board of Pharmacy
985 Damonte Ranch Parkway, Suite 206
Reno, Nevada 89521
Via email: shunting@pharmacy.nv.gov

Re: LCB File No. R035-19

Dear Mr. Wuest:

On behalf of our members operating pharmacies in the state of Nevada, the National Association of Chain Drug Stores (NACDS) thanks the Nevada State Board of Pharmacy (Board) for the opportunity to comment on the proposed rules addressing healthcare provider and delegate access to prescription drug monitoring program (PDMP) data as outlined in LCB File No. R035-19. NACDS appreciates the Board considering our feedback on this rulemaking.

The chain pharmacy community strongly supports the important role of PDMPs in helping to prevent drug abuse and diversion. Over the years, these programs have been established throughout the country as tools to curb diversion and abuse of controlled substance prescriptions. PDMPs give healthcare providers useful information about patients' controlled substance prescription histories and can help alert healthcare providers to individuals who may be diverting controlled substance prescriptions or who are at risk of a substance use disorder and require intervention.

In particular, NACDS commends the Board for pursing the proposed rules outlined in LCB File No. R035-19 that will allow a managing pharmacist to designate an intern pharmacist, pharmaceutical technician or pharmaceutical technician in training to act as a delegate and access the PDMP database on behalf of the pharmacy. According to reports from NACDS members, it can take on average between 2-6 minutes to access and run an individual patient report.[1] In busy healthcare settings, this time-consuming process may unfortunately deter some healthcare professionals from accessing PDMP reports. Allowing delegates to run PDMP reports on behalf of pharmacists for their review serves to ease the administrative burdens associated with this slow process and encourage broader use of PDMP information by healthcare providers.

NACDS thanks the Board for considering our views on this matter. Given how PDMPs role in helping to identify misuse, abuse and diversion of controlled substance prescriptions, we welcome the opportunity to work with the Board on this and other policy changes that optimize the usability of this important tool by healthcare providers in Nevada. If you have any questions, please do not hesitate to contact me at mstaples@nacds.org or 817-442-1155.

Sincerely,

Mary Staples

Mary Staples
Director, State Government Affairs

---

[1] Anecdotally, we have heard from NACDS members that it can take anywhere between 2-6 minutes to access and run a report on an individual patient from the states' online systems.

1776 Wilson Blvd. • Suite 200 • Arlington, VA 22209 • 703.549.3001 • Fax: 703.836.4869 • www.NACDS.org

A Different Approach

- We recognize the physician is a human who is exposed to many internal and external pressures.
- We understand the physician needs training and support from reliable and valid sources.
- Our goals are to improve the practice of medicine, the providers wellbeing and reduce harm to patients resulting from prescribing controlled substances outside of the standards of care.

Physician Consistent Stressors

- Patient satisfaction, insurance collections, patient count, YELP, updated knowledge, peer reputation, always having the correct answers, being the "go to" person, "work through it" mentality (do not admit "weakness" depression-anxiety), practice success, community reputation, over thinking, school loans, debt, perfectionism, anger, isolation, loneliness, high level of work/life conflict, stress of work relationships, difficulty "unplugging" after work, personal time, professional identity, community service, safe environment, relative value units (RVU's), Press Ganey survey scores, feelings of inadequacy, prolonged office hours, weekend rounds, 24 hour on call, increased workloads, insufficient rewards, conflicting philosophies and values with management, Family

University of Nevada, Reno School of Medicine

- Responds by bringing the best:
  - Information
  - Training
  - Tools
  - And experts, in a comprehensive 2-day course

  to support our physician community with best practices to enhance physician wellness and patient safety.

Goals

- Promote physician wellness
- Promote patient safety, health and care
- Understand the current opioid epidemic
- Examine the benefits and risks of opioids
- Share best practices in safe opioid prescribing
  - Case studies, discussions and education by experts

Methods

- Use validated exercises to assist the physician in understanding his/her motivation in the treatment of patients
- Teach new skills in identifying, communicating with and referring at risk patients
- Teach best practices in documenting and prescribing controlled substances
- Instill local and national best practices with opioid recommendations

Course Methods

- Interactive expert presentations
- Case Studies
- Group exercises
- Role play
- Building local and national referral sources
- Required homework assignments with feedback

Course Topics

- Who am I and how did I get here?
- Health impact of chronic pain
- Overcoming provider confusion and challenges
- Understanding the Nevada controlled substances laws
- Discussing evidence-based pain treatment options and non-opioid treatment options
- Physicians falling outside of care standards

Course Topics

- Tools to increase patient engagement and accountability
- Screening for co-existing mental health conditions
- Screening for addiction and treatment for opioid use disorder
- Prevention and management of opioid withdrawal
- Role of the DEA and the Nevada State Board of Medical Examiners

Course Faculty

- Colleen Camenisch, MS, Mindfulness and Wellness
- Reka Danko, M.D., Board Certified in Addiction Medicine
- Michael Lewandowski, Ph.D., Clinical Psychologist
- Louis Ling, JD., Attorney
- Earl Nielsen, Ph.D., Clinical Psychologist
- Melissa O'Brien, Director of CME for UNR Med
- Denis Patterson, M.D., Pain Specialist
- Melissa Piasecki, M.D., Forensic Psychiatrist
- Paul Snyder, MA, LADC-S, CPC-I, Course Director

Partners

- Center for the Application of Substance Abuse Technologies (CASAT) University of Nevada, Reno
- Reno Police Department
- Nevada State Board of Medical Examiners
- Join Together Northern Nevada (JTNN)
- Prevention, Advocacy, Choices, Teamwork (PACT)

Board of Pharmacy

- In the practice of pharmacy, the Nevada State Board of Pharmacy has a duty to carry out and enforce the provisions of Nevada law to protect the health, safety and welfare of the public.
- Protecting, healing and growing our health care providers clinical knowledge and wellness ultimately protects the health, safety and welfare of the public.

Vision for Pharmacy

- Pharmacy experts and the University of Nevada, Reno School of Medicine, create and offer a comprehensive CME course specifically tailored to the Pharmacists current personal and professional needs to help promote the health, safety and welfare of the public.

What do Pharmacists need to know?

- Please contact Paul Snyder
- Email: rpsnyder@med.unr.edu
- Phone: 775-622-2240

12 December 2019

Attention, Nevada Board of Pharmacy,

My name is Tyler Naginewicz and I am currently the Pharmacy Manager at CVS Pharmacy, Fallon. I have been working with Jaime for roughly 5 months now. I have observed Jaime's ability as a pharmacist in person and through verifying his work. His compassion for our customers and the effort he exhibits in his work is nothing short of substantial in our line of duty. I have witnessed his ability to consult our customers correctly and answer questions that they may have. With that being said, questions that do not have an immediate answer are looked up using his informatics skills he learned in pharmacy school. If you have any further questions for me, please contact me at my phone number below.

Tyler Naginewicz, Pharm D
CVS Pharmacy Manager

Letter of Recommendation

To Whom It May Concern,

I had the liberty of working with James at Kaiser Permanente, Riverside Hospital as one of his supervising pharmacists. During his time as an intern, he demonstrated his desire to learn. Together with his hard work ethic, he showed the pharmacy he was capable of providing excellent care to patients as a healthcare provider.

He has shown the ability to fit into leadership roles while balance work priorities. Although usually used as a technician, he dealt with patient issues which included verifying prescriptions or finding alternative therapies to recommend to doctors if there were issues.

Wherever Mr. Dexter goes, I believe he will succeed. He will help usher pharmacy into new heights with his innovative ways to solve problems that help the pharmacy grow. Please contact me if you have any questions. Thank you.

Godwin Kam, PharmD

Carols Counseling

(775) 240-5251 Fax (775) 201-1721

Certified by the Substance Abuse and prevention Agency (SAPTA NAC chapter 458.2882 , NRS Chapter 4,5,209 (AB 305) (SB) 453 yet al

Client's Attendance and Progress

Referral Source_____Sparks Justice Court_____

Client's Name_____James Dexter [redacted]_____

Mr. Dexter began Outpatient Counseling (DUI as well) at this agency February 2018. He attends either in person or via a HIPPA compliant therapy platform via computer one time a week. Mr. Dexter has followed all recommendations by this writer. He attends Alcoholics Anonymous, completed a first step, understands his triggers and has learned relapse prevention skills.

Mr. Dexter has been totally abstinent during this period of time as evidenced by negative observed urine drug screens. He has no prior history of any substance use other than alcohol.

Mr. Dexter has an extremely supportive family structure including parents as well as significant other none of whom have a substance use disorder (According to client).

Mr. Dexter engaged in group socializing activities with other group members and was relaxed and learned to socialize abstinent. He is an important group member because he is enthusiastic about his recovery. He is optimistic about his future.

This writer recommends the Pharmacy Board allow Mr. Dexter to sit the pharmacy board test and consider he be allowed to practice in Nevada.

Mr. Dexter will remain in this treatment center's care and observed urine drug screens will be performed. Should there be any difficulties the board will be advised.

This writer was referred to the Pharmacy Board by Larry Espidero LADC (Owner of PRN) and we have a specific program for impaired professionals (Nurses, Attorneys Pharmacists and Veterinarians)

Mr. Dexter's prognosis is excellent and he presents as no danger to the public he might serve.

I apologize for having conflicting commitments regarding the board today as I would certainly appear with Mr. Dexter in person for support

Carol Schaye RNc, LADC Director

1000 Bible Way #40, Reno, NV 89502 methodvideo2@att.net

KAISER PERMANENTE®
National HR Service Center

October 22, 2019

Employee ID: 00667213
Case Number: 5320458

James Dexter
13377 Carson Hwy
Fallon, NV 89406

Subject: Verification of Employment/Income

Dear Sir/Madam,

This letter is to verify that James Robert Dexter has been employed with our organization from 11/02/2015 to 05/02/2018. In addition, the following information is provided.

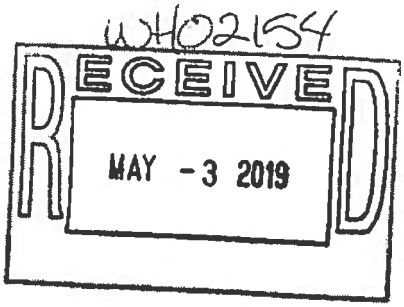
Job Title	Intern Pharmacist	
Work Status	Part Time	Regular
Hourly Pay Rate	$ 31.19	
Monthly Pay Rate	$ 3,243.55	
Annual Gross Income	**Year**	**Amount**
(Year-to-date if current year)	2018	$ 13,136.57
	2017	$ 33,109.81
	2016	$ 26,738.49
Additional Information Employee's standard hours per week is 24.		

If you have any questions, please contact the National HR Service Center at (877)457-4772. Please reference case number 5320458.

Sincerely,

HR Specialist
National HR Service Center

WH02154



To whom it may concern,

Our license number with Nevada is 1416. This letter is to info the board that we will now be using a 3PL company, called Woodfield Distribution, LLC. This will be effective as of 4/29/2019. Therefore, we would like to surrender our license. I have attached the 3PL information to this letter for your records. Please feel free to contact me if you have any questions.

Sincerely,

Adrienne Fink

Adrienne Fink

1 Northdale Blvd, Suite 250

Tampa, FL 33624

To: Nevada Board of Pharmacy
From: Carl Black, RPh
Date: 10/12/17
Re: Pharmacist license renewal supplementary information

Nevada Board of Pharmacy,

This amendment is being provided as full disclosure in regards to question 66 (Disciplinary Action) of said license renewal application. I was notified by certified mail on Saturday 9/2/17 that the State of Oregon will be approving licensure by reciprocity with the stipulation of an imposed fine of $1,000 ($150 paid/$850 stayed pending term compliance for 3 years) and 3 continuing education hours on Law/Ethics upon proposed consent order finalization. Attached are the documents as I received them from the Oregon Board of Pharmacy. I have agreed to, signed, and submitted the Consent Form, though will likely take a month or more to finalize so am providing the information available to me now for the purpose of disclosing this event per renewal guidelines.

Details:
I obtained my pharmacist license by exam from the state of Kansas six years ago, and am currently employed as a pharmacist supervisor at OptumRx, a mail order pharmacy in Kansas. I submitted an application for reciprocity with the state of Oregon for back-up PIC role status. After passing the Oregon MPJE they notified me that I had checked "No" on an application question that asked if I had been arrested or convicted of a crime, which conflicted with the background check that showed I had received a DUI twenty-two years ago (1995) at the age of 21, which is accurate.

I have obtained licensure by reciprocity with 14 different states without incident. I cannot recall with certainty my mindset while filling out this specific application, but can only conclude I either misinterpreted the verbiage somehow or did not study the question carefully enough and overlooked its full intent. Regardless of the how I made an error, I make no excuses for this action and maintain responsibility without contest. This is a serious matter that I am taking very seriously. As a result of this oversight I have put not only my primary license at risk of which I rely on for my livelihood, but also all the other licenses that I have worked extremely hard to obtain, as well as jeopardizing the extensive financial investment that my company entrusted in me.

I consider myself a well-rounded individual with high standards, integrity, moral conviction, strong work ethic, and true sense of compassion. One of my strengths has been my attention to detail and leaving no stone unturned in quest for an answer, and consequently am highly embarrassed and ashamed of this incident. I have had numerous background checks done in the past, and though the DUI was ultimately dismissed from my record am aware the event always shows up on a background check, and would implore that checking said boxes was not done so as a purposeful attempt to deceive or otherwise obstruct information.

Included are the consent form documents as received from the Oregon Board of Pharmacy. As stated I have signed and submitted the Consent Form along with $150 civil penalty fee and 3 hours of Law based continuing education. Please let me know if there is any additional information I can provide, I am at your disposal regarding this matter.

Personal background:
I currently supervise 18 pharmacists and assist in overseeing around 120 techs/clerks within the fulfillment department. After high school I majored in Business Management, then joined the US Army Infantry, then worked with ScriptPro where I became interested in pharmacy and went back to school and obtained my PharmD. I additionally act as the PIC at a Methadone Treatment Center. I've attached a resume for your inspection as well as a photo, character witnesses are available upon request.

Sincerely,

Carl Black

Carl Black, RPh
Taylor Drive, Overland Park, KS 66212

RECEIVED
OCT 17 2017
OREGON BOARD OF PHARMACY

BEFORE THE BOARD OF PHARMACY
OF THE STATE OF OREGON

In the Matter of the Pharmacist License Application of	)	Case No. 2017-0215
CARL ROBERT BLACK	)	CONSENT ORDER
Applicant	)	

WHEREAS, the Board of Pharmacy of the State of Oregon has filed a Notice of Proposed License Denial; Answer Required ("Notice"), hereby incorporated by reference, regarding the applicant in the above-captioned matter; and

WHEREAS, the above-noted Notice was duly served on the applicant as required by law; and

WHEREAS, the parties are desirous of resolving and settling those matters contained in the above-noted Notice without further proceedings thereon; and

WHEREAS, the applicant is aware of the right to a hearing with the assistance of counsel and the right to judicial review of the Board's decision, and hereby freely and voluntarily waives those rights; and

WHEREAS, the applicant admits that the facts alleged in the above-noted Notice are true, that the applicant's conduct, as admitted, violated the statutes and rules cited in the Notice, and that legal cause exists pursuant to ORS 689.405 for refusal to issue a pharmacist license by the Board; and

WHEREAS, the Board is authorized to settle matters pursuant to ORS 183.417(3) and the Board and applicant agree to the terms set forth in this Consent Order;

The Board finds that the allegations in the Notice are true and hereby grants applicant's pharmacist license with conditions.

1. Licensee shall pay a civil penalty in the amount of $1,000 with $850 stayed pending compliance with the terms of this Consent Order and no further violation for three (3) years. The $150 civil penalty shall be paid within ten days from the date this Consent Order becomes final.

2. Licensee shall earn and submit continuing education (CE) certificates for three (3) hours of CE in the area of pharmacy law or ethics within 10 days from the date this Consent Order becomes final. The continuing education hours earned in regards to this case are in addition to the CE required by pharmacists for renewal and are not eligible for renewal purposes. Licensee shall submit certificates of completion to the Board office by certified mail (or other method approved by the Board in writing) and retain receipt of verification of delivery to the Board office.

3. Failure of the licensee to comply with all the requirements of the final order in this matter constitutes failure to cooperate with the Board and is grounds for revocation or any other form of discipline or sanction authorized by law.

CONSENT

I hereby acknowledge that I have read and understand the above-noted Notice and the terms of the Consent Order. I hereby acknowledge that I understand that the Consent Order with incorporated Notice is a public record and shall be available via the Board's online licensure verification; is available upon written request pursuant to public disclosure laws; and shall be reported to the National Practitioner Data Bank as required by federal law. I agree to the Board entering the Consent Order.

Carl Robert Black, Applicant — Date 10/1/17

IT IS SO ORDERED.

BOARD OF PHARMACY
FOR THE STATE OF OREGON

Brianne Efremoff, Pharm.D, R.Ph.
Compliance Director — Date 10/9/17

BEFORE THE BOARD OF PHARMACY
OF THE STATE OF OREGON

In the Matter of the Pharmacist License Application of CARL ROBERT BLACK Applicant	))))))))	Case No. 2017-0215 NOTICE OF PROPOSED LICENSE DENIAL; ANSWER REQUIRED

The Oregon Board of Pharmacy proposes to deny your pharmacist license, and impose a civil penalty pursuant to ORS 689.445, ORS 689.832, and ORS 689.405 because you violated the Oregon Pharmacy Act and the Board of Pharmacy rules as follows:

On or about 4/26/2017, you made fraudulent statements or misrepresented the facts submitted to the Oregon Board of Pharmacy during the course of applying for licensure as a pharmacist. The Board of Pharmacy license application you completed requires that you respond fully and truthfully to questions. A question asked whether you have ever been cited, arrested for, charged with or convicted of the commission of any crime, offense or violation of the law in any state or by the Federal Government even if those charges were dismissed, to which you responded No. You were required to explain the circumstances in detail to any affirmative responses. You hand wrote on the form that you had "…never been arrested or cited for, charged with nor convicted of the commission of any crime, offense or violation of the law in any state or by the federal government." You signed the application certifying that you read the application and all information provided was true and correct and were aware that providing false information or withholding information is grounds for denial of a license.

You failed to report that on or about 6/10/1995, you were arrested by the Hays Police Department (KS) on the charge of Driving Under the Influence.

The above conduct is unprofessional conduct as defined by OAR 855-006-0020(j) and (k) and in violation of and grounds for discipline pursuant to OAR 855-019-0205(1) and (2), OAR 855-019-0310(7), OAR 855-001-0035, ORS 162.085, ORS 689.490(2)(a) and (c), and ORS 689.405(1)(a), (e)(B) and (f).

Based on these alleged violations, the Board proposes to deny your pharmacist license and impose a $1,000 civil penalty per violation.

HEARING RIGHTS

You are entitled to a hearing as provided by the Administrative Procedures Act (ORS chapter 183). If you wish to have a hearing, you must file a written request for hearing with the

Board within 60 days from the date this notice was mailed. You may send or deliver a request for hearing to:

Oregon Board of Pharmacy
800 NE Oregon Street, Suite 150
Portland, OR 97232
Fax (971) 673-0002

If a request for hearing is not received within this 60-day period, your right to a hearing shall be considered waived.

If you request a hearing, you will be notified of the time and place of the hearing. Before the commencement of the hearing, you will be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing. You may be represented by legal counsel.

If you do not request a hearing within 60 days, or if you withdraw a hearing request, notify the Board or Administrative Law Judge that you will not appear, or fail to appear at a scheduled hearing, the Board may issue a final order by default imposing discipline. If the Board issues a final order by default, it designates its file on this matter as the record.

Notice to Active Duty Servicemembers: Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 1-800-452-8260, the Oregon Military Department at 1-800-452-7500 or the nearest United States Armed Forces Legal Assistance Office through http://legalassistance.law.af.mil.

ANSWER REQUIRED

Pursuant to OAR 855-001-0010 and OAR 855-001-0015, if you request a hearing you must also provide, within 60 days from the date this document was served, a written answer to the allegations set forth in this document. Your written answer must include an admission or denial of each factual matter alleged in the notice. Except for good cause, factual matters alleged in this document and not denied in your answer will be presumed admitted.

Hearing Request and Answers:
Consequences of Failure to Answer
855-001-0015

(1) A hearing request, and answer when required, shall be made in writing to the Board by the party or his attorney and an answer shall include the following:

(a) An admission or denial of each factual matter alleged in the notice;

(b) A short and plain statement of each relevant affirmative defense the party may have.

(2) Except for good cause;

(a) Factual matters alleged in the notice and not denied in the answer shall be presumed admitted;

(b) Failure to raise a particular defense in the answer will be considered a waiver of such defense;

(c) New matters alleged in the answer (affirmative defenses) shall be presumed to be denied by the agency; and

(d) Evidence shall not be taken on any issue not raised in the notice and the answer.

BOARD OF PHARMACY
FOR THE STATE OF OREGON

Brianne Efremoff, Pharm.D, R.Ph.,
Compliance Director

Date 8/29/17

DATE OF MAILING 8/30/2017

To: Nevada Board of Pharmacy
From: Carl Black
Date: 10/12/17
Re: Conviction Information/Explanation

Nevada Board of Pharmacy,

I, Carl Black, received a DUI on June 10, 1995 in Hays KS at the age of 21 while in college. I had gone to the bar for a short while to visit my girl friend, I had a beer upon arrival and another one about an hour later, I thought I would be more than safe to drive using the 1 beer an hour theory but apparently was not. I was pulled over immediately after pulling out of the bar parking lot, took the sobriety test but failed the breathalyzer. I pleaded no contest, received a diversion, and successfully completed the diversion a year later on approximately June 20, 1996. I have not driven after drinking since. Court report documents attached.

Hays Police Department

105 WEST 12TH STREET
HAYS, KANSAS 67601-3648

Don Scheibler
Chief of Police
Phone (785) 625-1030

May 16, 2017

RE: City of Hays vs. Carl R. Black (DOB: 04/24/74)
95-11472

To Whom It May Concern:

A request was made for the police report for the above captioned matter. The Hays Police Department no longer has a copy of this report on file.

If you have any questions concerning any of the above, please feel free to contact me.

Sincerely,

Kelli L. Sprague

Hays Police Department Records Division

Complaint

P-95-11472

UNIFORM NOTICE TO APPEAR AND COMPLAINT

Case No. 95A-2359 Docket No. 95D-2902

State of Kansas
County of ELLIS } ss. 1 of 2 RE: 11597
Number Charges

City of HAYS

284-A

In the MUNICIPAL Court of HAYS

The Undersigned, complains that

On the 10 day of June 19 95 at 0154 (Time)

Name Black (Last) Carl (First) R. (Initial)

Street Address #9-A Country Side Estates

City Hays State KS Zip 67601

Birth Date

Race W Sex M Ht. 507 Wt. 140

Driv. Lic. State KS No. Class C

Did Unlawfully in the City of HAYS

(or other location) 100 blk W. 12th

Did unlawfully Operate a Yr. 93 Make Eagle 2dr. (Mar) Comm. Veh. ☐

Year 96 State KS License No. EL/MAGIC

and did then and there commit the following:

By: ( ) Speeding (Over Limit) _____ mph in _____ mph zone
( ) Disobeyed Traffic Signal
( ) Inattentive Driving
( ) Disobeyed Stop Sign
( ) Failure to Yield Right of Way

Other Violations:

DUI

Section No. 30

Ordinance 3319

Infraction ☐
Misd. ☒
Other ☐
Accident ☐
Haz. Mat. ☐

Officer's Signature B. Bowerell No. 524 Co. 26

Appear before MUNICIPAL (Name of Court) At HAYS (City)

On 20 day of June 19 95 at 2:30 P.M. (Time)

I promise to appear in said court at said time and place above for arraignment.

Signature Turned Over To Detention

Bond Posted ☐ Cash ☐ D.L. ☐ Bond Card No. _____

Amount $ _____ Location _____

I the above officer, served a copy of the infraction citation upon the defendant. ☒

Name 95A-2359 Black, Carl R.
(Last) (First) (Initial)

☐ Infraction Case No. _____

☐ Misdemeanor Complaint Filed _____

☐ Other

COURT ACTION

A. PLEA:

☐ Guilty. ☐ Nolo Contendere

☐ Not Guilty ☐ Bond Forfeited

Date of Conviction _____

B. FINDING BY: ☐ Court ☐ Jury

☐ Found Guilty

☐ Found Guilty as Amended:

☐ Found Not Guilty ☐ Dismissed

If convicted of vehicle battery or aggravated vehicle homicide was the act committed while committing a violation of:
☐ KSA 8-1566, ☐ KSA 8-1567 or ☐ KSA 8-1568

6/20/95 Date Entered

C. ☒ K.S.A. 8-1567 Diversion

D. JUDGMENT:

☒ Fine $ 275

☒ Costs $ 161.50

☐ Jail Days _____

E. DRIVERS LICENSE:

☐ Suspended For _____ (Period of Time)

☐ Revoked For _____ (Period of Time)

☒ Restricted For 330 days (Period of Time)

Other Orders: to drive to/from work, alcohol program and medical emergencies.

CONVICTING COURT: _____

☐ Represented by Counsel _____ (Name)

☒ Written Waiver of Counsel Filed With Court

"I certify that the above is a true and correct abstract of the court record in this case as required by K.S.A. 8-2115 or K.S.A. 8-253."

(Signature of Judge or Clerk)

City of Hays, Ellis County, ss:
I, Patty Wolf, Clerk of the Municipal Court, in and for the city of Hays aforesaid, do hereby certify that the foregoing is a true and correct copy of the original instrument on file at my office Hays, Kansas.

Patty Wolf
Clerk of Municipal Court

5-16-17

IN THE MUNICIPAL COURT OF THE CITY OF HAYS, KANSAS

City of Hays,	)	
	)	
vs.	)	Case No. 95A-2359
	)	
Carl R. Black	)	
	)	

WAIVER OF COUNSEL

The undersigned acknowledges that he or she has been informed by the Municipal Court of the charges against him or her, of the possible penalty, of the nature of the proceedings before the Court, of his or her right to have counsel appointed to represent him or her, if he or she is financially unable to obtain counsel and is determined to be indigent, all of which the undersigned fully understands. The undersigned now states to the Court that he or she does not desire to have counsel, either retained or appointed, to represent him or her before the Court, and wishes to proceed without counsel.

Carl R. Black

SUBSCRIBED AND SWORN TO before me this 20th day of June, 19 95.

Gene T. Anderson

I hereby certify that the above named person has been fully informed of the charges against him or her and of the accused's right to have counsel, either retained or appointed, to represent the accused at the proceedings before this Court and that the accused has executed the above waiver in my presence, after its meaning and effect have been fully explained to the accused, this 20th day of June, 19 95.

Gene T. Anderson
Judge of the Municipal Court

City of Hays, Ellis County, ss:
I, Patty Wolf, Clerk of the Municipal Court, in and for the city of Hays aforesaid, do hereby certify that the foregoing is a true and correct copy of the original instrument on file at my office Hays, Kansas.

Patty Wolf
5-16-17 Clerk of Municipal Court

IN THE MUNICIPAL COURT
OF HAYS, KANSAS

DIVERSION AGREEMENT
Driving Under the Influence

CITY OF HAYS Plaintiff)
)
vs) Case No. 95A-2359
)

Carl R. Black
Full Name

Countryside Estates
Street Address

Hays, KS 67601
City, State and Zip Code

Telephone Number

Sex M Race W DOB _ _ DL:

Arrest Date June 10th, 1995 Arresting Agency: HAYS POLICE DEPT.

THIS AGREEMENT is dated June 20th, 1995.

CHARGE AND FACTS STIPULATED TO: On or about June 10th, 1995 the defendant above named, operated a motor vehicle while under the influence of alcohol or drugs within the City of Hays, as more, specifically stated in the complaint filed in this case, and the following additional evidence attached, if any, all of which are incorporated herein by reference as facts stipulated to:
BAT, videotape, and police reports

ALCOHOL AND DRUG SAFETY ACTION PROGRAM: Defendant shall participate and shall begin his/~~her~~ program within 90 days or as scheduled.

EVALUATION APPOINTMENT: Defendant shall make an evaluation appointment no later than completed June 19th, 1995.

FINE: The minimum fine of $ 275.00 and court costs of $ 161.50 may be paid in installments, but must be paid in full no later than September 20th, 1995.

SPECIAL CONDITIONS OF DIVERSION: MUST COMPLY WITH ALL TREATMENT ON ALCOHOL EVALUATION. DRIVER'S LICENSE IS RESTRICTED FOR 330 DAYS TO DRIVE TO/FROM WORK AND DURING THE COURSE OF EMPLOYMENT ONLY, TO/FROM ALCOHOL PROGRAM, AND TO/FROM MEDICAL EMERGENCIES.

Defendant

Pro Se
Attorney for Defendant

Prosecuting Attorney

TERMS OF DIVERSION AGREEMENT

1. Defendant is released pending trail or disposition for a period of one year, conditioned upon the successful completion of the diversion program. The defendant waives his statutory and constitutional right to a speedy trial.

2. The defendant shall refrain from violation of any of the laws of the United Stated or of any state or any city thereof.

3. The defendant understands that during the period of diversion of prosecution, the charge against him will remain in full force and affect and that said matter may be set for trial prior to the end of the diversion period upon termination of the agreement by any party to this agreement.

4. That upon successful completion of the diversion period, the complaint will be dismissed by the City of Hays, with prejudice.

5. The defendant shall complete the alcohol program recommended in the evaluation and shall pay all fees associated with that program.

Pursuant to K.S.A. 22-2909(i), a copy of this diversion agreement will be forwarded to the Department of Revenue, and shall be available upon request to any county, district or city attorney.

I Carl R. Black, the above named defendant, understand and agree that if I violate the terms and conditions of this agreement, this case will proceed to trial based solely upon the charge and fact stipulated to and as shown in the complaint, including all evidence set forth in the above agreement, if any and I will not be entitled to present additional evidence concerning guilt or innocence at that trial. Therefore, in return for acceptance into the diversion program, I stipulate and agree to the facts stated as the charge and facts stipulated to alleged in the complaint filed in this case, and the facts as contained in the additional evidence attached to this agreement, if any, and agree to comply with the conditions as set forth herein.

06/20/95
Date

Defendant

City of Hays, Ellis County, ss:
I, Patty Wolf, Clerk of the Municipal Court, in and for the city of Hays aforesaid, do hereby certify that the foregoing is a true and correct copy of the original instrument on file at my office Hays, Kansas.

Patty Wolf
5-16-17
Clerk of Municipal Court

State	License #	Screen Shots of License Verification Pages on Board of Pharmacy Web Pages

Kansas — 1-15341

Kansas Pharmacy Board

The Kansas Board of Pharmacy certifies that it maintains the information for the credential verification function of this website, as well as performing hourly updates to the information represented. Therefore, the website is a secure and primary source of credential verification information, as authentic as a direct inquiry to the Board.

General

Name or Business:	CARL BLACK	Issue Date:	6/29/2011
Classification:	Pharmacist	On Probation:	No
License Type:	N/A	Discipline on File:	No
L/P/R No:	1-15341		
Status:	Active		

Licenses

L/P/R #	Description	Effective	Issued	Expires	Status
1-15341	Pharmacist License (Pharmacist)	7/1/2017	6/29/2011	6/30/2019	Active

Colorado — PHA.0021692

STATE OF COLORADO 1876

Lookup Detail View

Licensee Information

This serves as primary source verification of the license.*

**Primary source verification. Licence information provided by the Colorado Division of Professions and Occupations, established by 24-34-102 C.R.S.*

Name	Public Address
Carl Robert Black	Overland Park, KS 66212-5420

Credential Information

License Number	License Method	License Type	License Status	Original Issue Date	Effective Date	Expiration Date
PHA.0021692	License Transfer	Pharmacist	Active	04/19/2017	11/01/2017	10/31/2019

Board/Program Actions

Discipline
There is no Discipline or Board Actions on file for this credential.

Nevada — 19543

Nevada State Board of Pharmacy

Last Name	First Name	License#	City	State	Country	Action
BLACK	CARL	19543	OVERLAND PARK	KS	United States	

Last Name :	BLACK	First Name :	CARL
City :	OVERLAND PARK	State :	KS
Zip :	66212		
License Date :	04/10/2017	Status :	Active
License Number :	19543	Type :	Pharmacist
Expiration Date :	10/31/2019		

Print | Close

New Mexico — RP00008684

N·E·W·M·E·X·I·C·O LABOR DEPARTMENT REGULATION & LICENSING

Licensee Details

Demographic Information

Title:		First:	Carl	Middle:	Robert	Last:	Black Suffix:
DOB:		SSN:	Gender: Male	POB:			

License Information

DBA:							
Lic #:	RP00008684	Profession:	Pharmacy	Type:	Registered Pharmacist	Secondary:	
Status:	Active	Issued:	4/13/2017	Expiry:	4/30/2019	Effective:	4/13/2017
Reason:	License Issuance	Date:	4/13/2017	Renewed:		Deg. Suff:	
Method:	Reciprocity	State:		Country:		LOA Issue:	

Oregon	RPH-0016353	**Oregon Board of Pharmacy** **Licensee Detail** **Name:** BLACK, CARL ROBERT **Location:** OVERLAND PARK, KS **License Type:** Pharmacist **License #:** RPH-0016353 **License Status:** Active **Initially Licensed:** 10/23/2017 **License Expires:** 6/30/2019 **Board Action?** Yes - View 2017-0215
Michigan	5302045467	LARA Department of Licensing and Regulatory Affairs Bureau of Professional Licensing / Bureau of Community and Health Systems **Name and Address** **Name:** CARL ROBERT BLACK **Address:** Overland Park, KS 66212 **Profession and License/Registration Information** **Profession:** Pharmacy — **Type:** Pharmacist **Permanent ID #** 5302045467 — **Status** Active — **Issue Date** 04/27/2017 — **Expiration Date** 06/30/2020 **Complaints and Disciplinary Action** **Open Formal Complaints:** None **Disciplinary Action** Fine Imposed — **Date of Action** 01/11/2019 — **Date of Compliance**
Kentucky	019130	Kentucky Board of Pharmacy **Detail for License Number 019130** **CARL ROBERT BLACK** OVERLAND PARK, KS 66212 **Kentucky Board of Pharmacy** State Office Building Annex, Ste 300 125 Holmes Street Frankfort, KY 40601 **License Information** **Expiration Date** 2/28/2019 **Effective Date** 5/11/2017 **Status of License** Active **Preceptor** No **Naloxone** No **Board Action** No **Case Number(s)**
West Virginia	RP0010108	WEST VIRGINIA BOARD OF PHARMACY **License Number** RP0010108 **License Type** Registered Pharmacist **Name** Black, Carl **City** Overland Park **State** KS **Date Issued** 05/23/2017 **Expiration Date** 6/30/2020 **License Status** Active **Disciplinary Action** No **Public Discipline Documents**

Virginia	0202215788	**Virginia Department of Health Professions** **License Lookup** Current as of 12/20/2018 22 41 License Information License Number: 0202215788 Occupation: Pharmacist Name: Carl R Black Address: Overland Park, KS 66212 Initial License Date: 06/02/2017 Expire Date: 12/31/2019 License Status: Current Active Additional Public Information*: No
Maryland	24956	STATE OF MARYLAND BOARD OF PHARMACY **Demographic Information** Name: Carl Robert Black **Address Information** City: Overland Park State: KS Zip: 66212 **Maryland License\Permit Information** Number: 24956 Type: Pharmacist Status: Active Original Issued: 6/8/2017 Date Renewed: Expires: 4/30/2019 **Specialty Information** No Speciality Information **Related Documents**
Texas	61238	TEXAS STATE BOARD OF PHARMACY **Texas Pharmacist License # 61238** **BLACK, CARL ROBERT** **License Information** **License Status** Active **License #** 61238 **Expiration Date** 04/30/2019 **Date License Issued** 08/10/2017 **Pharmacist Details** **School Graduated** UNIVERSITY OF KANSAS **Graduation Year** 2011 **Degree at time of licensure** Pharm D **License Method** Reciprocity **Preceptor** No **Prior Disciplinary Order(s)*** No **Employment Information** No employment records available. **Names** **Last Name** BLACK **First Name** CARL **Middle Name** ROBERT **Other Name** **Certificate Name** BLACK, CARL ROBERT **More Pharmacist Details** **Specialty Board Certification ¥** Unknown ¥ Data regarding Specialty Board Certification is self-reported by the license holder and no warranty regarding the information is created. Therefore, neither the State of Texas nor the licensing agency accept any legal liability or responsibility or may be held liable or responsible for the accuracy, completeness, timeliness, or usefulness of this information. Should you have any concern as to the accuracy of the data in this system, please contact the license holder for clarification.

Mississippi — T-15140

The Mississippi Board of Pharmacy certifies that it maintains the information for the credential verification function of this website, as well as performing hourly updates to the information represented. Therefore, the website is a secure and primary source of credential verification information, as authentic as a direct inquiry to the Board.

General

Name or Business:	Black, Carl R.	Original Issue Date:	8/9/2017
Classification:	Pharmacist	On Probation:	No
L/P/R No:	T-15140	Discipline on File:	No
Status:	Active		

Licenses

L/P/R #	Description	Effective	Expires	Issued	Status
T-15140	Pharmacist License	11/7/2018	12/31/2019	8/9/2017	Active

Louisiana — PST.022295

LOUISIANA BOARD of PHARMACY

The Louisiana Board of Pharmacy certifies that it maintains the information for the credential verification function of this website, and further, performs daily updates to the website. Therefore, the website is a secure and primary source for credential verification, as authentic as a direct inquiry to the Board.

Lookup Detail View

Name

Name
Carl R. Black

Credential Information

License	License Type	Issue Date	Expiration Date	Status
PST.022295	Pharmacist	01/03/2018	12/31/2019	Current, without restriction or limitation

Education

School	Graduation Date	Degree
University of Kansas - School of Pharmacy	05/22/2011	PharmD

Alabama — 20091

Alabama Board of Pharmacy

Primary Source Verification

Name	License #	License Type	Status	Issued	Expires	Discipline	Unprofessional Conduct Report
Filters	Filters	Filters	Filters	Filters	Filters	Filters	Filters
Black, Carl Robert	20091	Pharmacist License	Active	09/14/2017	12/31/2020	N	Yes

Tennessee — 40989

TN Department of Health

Licensure Verification

Search Results

1. Black , Carl Robert
   Overland Park, KS 66212

Profession: Pharmacist
Rank: Pharmacist
Qualifications:
Controlled Substance Qualifications

License Number: 40989
Status: Licensed

Original Date: 06/21/2017
Expiration Date: 06/30/2019

View:

Arkansas — PD14227

ARKANSAS STATE BOARD OF PHARMACY

Name:	Carl Robert Black
License Type:	Pharmacist License
License Number:	PD14227
Issue Date:	09/25/2017
Expiration Date:	12/31/2019
Current Status:	Active
Disciplinary Action:	No
Preceptor:	No
Nursing Home Consultant:	No
Immunization Certification:	No
License Method:	Reciprocity

Nebraska	16198	NEBRASKA Good Life. Great Mission. Dept. of Health and Human Services **License Details** Name on License: Carl Robert Black Country: United States Profession Name: Pharmacy License Type: Pharmacist License Number: 16198 Date of Issuance: 08 / 30 / 2018 Date of Expiration: 01 / 01 / 2020 License Status: Active Effective Date of Status: 08 / 30 / 2018 Reason for License Status: License Issuance
Massachusetts	PH238476	Health and Human Services Mass.Gov **Licensee Information** Close Window Note: to print this page properly select File, Page Setup, and Landscape. **Name** Full Name: Carl Robert Black **License Information** License Number: PH238476 Profession: PHARMACY Issue Date: 10/5/2018 License Status: Current Reciprocity State: MA License Type: Pharmacist Date of Last Renewal: Expiration Date: 12/31/2020 Today's Date: 12/20/2018 **Prerequisite Information** No Prerequisite Information **Disciplinary Information** This website displays disciplinary actions taken against a license since 1993. For information on any disciplinary actions taken before 1993, contact the Board that issued the license. **Important:** Disciplinary actions taken against a license will NOT display on any other license or associated permit or authorization. You must look up every license, permit, or authorization held by a licensee to see all disciplinary actions. Case # / Date Closed / Discipline / Discipline Start / Discipline End Currently there is no disciplinary information regarding this license.
Oklahoma	17435	Oklahoma State Board of PHARMACY Last Updated: 12/20/2018 7:28:52 PM **Pharmacist Detail** Back Name: CARL ROBERT BLACK Type: Doctor of Pharmacy Number: 17435 Class: Active City, State, Zip: OVERLAND PARK,KS 66212 Status: License in Good Standing Issue Date: 04/04/2017 Renewed Date: 03/09/2018 Expire Date: 04/30/2019 End Date: Preceptor?: No Immunization?: No **Disciplinary Action** Click on any of the Underlined headings to sort by that column. Case Date / Case Number No Disciplinary Action • **PRIMARY SOURCE VERIFICATION:** The Oklahoma State Board of Pharmacy certifies that it maintains the information for the license verification function of this website, performs daily updates to the website and considers the website to be a secure, primary source for license verification. • **ATTENTION NEW REGISTRANTS!** Website verification is not an official certificate of registration. You cannot practice in Oklahoma until you have received a letter of registration, renewal or permit from the Board • **WRITTEN VERIFICATION OF LICENSURE (OR LETTER OF GOOD STANDING):** There is a $10 fee for a certified verification of license from the Board. Website verification remains free.

Black, Carl

From: Carl Black <
Sent: Monday, December 02, 2019 8:51 AM
To: Black, Carl
Subject: Fwd: RPh Disclosure Notification
Attachments: Carl Black_Nevada BOP_Disclosure_110618.docx; Carl Black_Michigan Consent Order_110418.pdf

---------- Forwarded message ---
From: **Carl Black** <[redacted]>
Date: Wed, Nov 7, 2018 at 12:39 AM
Subject: RPh Disclosure Notification
To: <shunting@pharmacy.nv.gov>

Hello, I am submitting this communication to provide disclosure of action taken by another state's BOP in response to the 2017 action taken by the original State of notice.

Essentially, the Michigan BOP has conveyed that violation of the Oregon BOP rules and regulations constitutes violation(s) of the Michigan Public Health Code. As a result I have agreed to their terms/conditions and am paying a $250 fine to satisfy the imposed sanction requirements.

I am attaching a document with this information formally dictated along with the Michigan Consent Order.

Please let me know if it is acceptable to submit disciplinary disclosure notifications to you/in this manner, and if not could you provide me with a more preferred method to do so.

Thank you,
Carl Black, RPh

To: Nevada Board of Pharmacy
From: Carl Black, RPh
Re: Disciplinary Action Notification
Date: 11/06/18

Nevada Board of Pharmacy,

I am submitting the following incident details via this communication as full disclosure of action being taken by the Michigan Board of Pharmacy on my Michigan Pharmacist License with attached Consent Order and Stipulation form dated Oct. 31, 2018.

I submitted notification to this office last year within my 2017 license renewal packet of action taken by the Oregon BOP for erroneously checking an incorrect box on my reciprocity application, to include all supporting documentation and evidence. Oregon awarded licensure upon completion of fine/CE terms which were met.

Notification of this action was additionally disclosed to the 19 states I am currently licensed in. In response to this action taken by the Oregon BOP so finalized on 10/23/17, the Michigan BOP has subsequently filed said case that conveys violation of the Oregon BOP rules and regulations constitutes violation(s) of the Michigan Public Health Code (as I understand it). I have agreed to the terms and conditions of this order and remitting payment of $250 to satisfy requirements of the imposed fine.

Please notify me if you require any additional information or documentation. I am at your disposal regarding this matter.

Sincerely,

Carl Black

Carl Black, RPH

RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

October 31, 2018

Email:

Carl Robert Black, R.Ph.
Taylor Dr.
Overland Park, KS 66212

Re: File Number: 53-18-148992

Dear Licensee:

A member of the Board has reviewed your file and has made sanction recommendations to resolve the Complaint as detailed in the enclosed Consent Order and Stipulation. **If acceptable, please date and sign the Stipulation and return the signed document to this office NO LATER THAN November 14, 2018. The signed document can be e-mailed, faxed, or mailed to my attention at:**

Bureau of Professional Licensing
Regulation Section, Enforcement Division
P.O. Box 30670
Lansing, MI 48909-8170

Email: eatons2@michigan.gov
Fax: (517) 241-9280

If the proposed resolution is not received in this office by **November 14, 2018,** the matter will be transferred to the Department of Attorney General to proceed with a hearing on the matter.

Thank you in advance for your consideration. If you have any further questions in this matter, please contact me.

Sincerely,

Sarah Eaton

Sarah Eaton, Analyst
Bureau of Professional Licensing
Regulation Section, Enforcement Division
Phone: (517) 241-6771

Enclosure

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF PROFESSIONAL LICENSING
BOARD OF PHARMACY
DISCIPLINARY SUBCOMMITTEE

In the Matter of

CARL ROBERT BLACK, R.Ph.
License No. 53-02-045467,
Respondent.

File No. 53-18-148992

CONSENT ORDER

On June 1, 2018, the Department of Licensing and Regulatory Affairs executed an Administrative Complaint charging Respondent with violating the Public Health Code, MCL 333.1101 *et seq*.

Respondent has admitted that the facts alleged in the Complaint are true and constitute violation(s) of the Public Health Code. The Board of Pharmacy's Disciplinary Subcommittee (DSC) has reviewed this Consent Order and Stipulation and agrees that the public interest is best served by resolution of the outstanding Complaint.

Therefore, IT IS FOUND that the facts alleged in the Complaint are true and constitute violation(s) of MCL 333.16221(b)(x).

IT IS FURTHER ORDERED that for the cited violation(s) of the Public Health Code, Respondent is FINED $250.00 to be paid to the State of Michigan within 60 days from the effective date of this Order. The fine shall be mailed to the **Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, Enforcement**

Division, Compliance Section, P.O. Box 30189, Lansing, MI 48909. The fine shall be paid by check or money order, made payable to the State of Michigan, and the check or money order shall clearly display file number **53-18-148992**.

IT IS FURTHER ORDERED that if Respondent fails to comply with the terms and conditions of this Order, Respondent's license shall be automatically SUSPENDED for a minimum of one day. If, within six months of the suspension of the license, Respondent complies with the terms of this Order, the license shall be automatically reinstated.

IT IS FURTHER ORDERED that if Respondent's license to practice remains suspended for more than six months, Respondent must apply for reinstatement of the license. If Respondent applies for reinstatement of the license, application for reinstatement shall be in accordance with MCL 333.16245 and 333.16247.

IT IS FURTHER ORDERED that this Order shall be effective 30 days from the date signed by the DSC, as set forth below.

MICHIGAN BOARD OF PHARMACY

By: _____
Chairperson, Disciplinary Subcommittee

Dated: _____

STIPULATION

1. The facts alleged in the Complaint are true and constitute violation(s) of MCLs 333.16221(b)(x).

2. Respondent understands and intends that by signing this Stipulation Respondent is waiving the right, pursuant to the Public Health Code, the rules promulgated thereunder, and the Administrative Procedures Act, MCL 24.201 *et seq.*, to require the Department to prove the charges set forth in the Complaint by presentation of evidence and legal authority, and Respondent is waiving the right to appear with an attorney and such witnesses as Respondent may desire to present a defense to the charges.

3. This matter is a public record required to be published and made available to the public pursuant to the Michigan Freedom of Information Act, MCL 15.231 *et seq.*, and this action will be reported to the National Practitioner Data Bank and any other entity as required by state or federal law.

4. Factors taken into consideration in the formation of this order include the following:

a) Respondent provided evidence to the Department that the underlying conviction that the Oregon Board took issue with was set aside one year after the conviction date and Respondent stated that he answered the question incorrectly on the Oregon's Board licensure application because he was confused on how to report a set aside order.

5. Nichole L. Cover, R.Ph., a member of the Board who supports this proposal, and the Department's representative are free to discuss this matter with the DSC and recommend acceptance of the resolution set forth in this Order.

6. This Order is approved as to form and substance by Respondent and the Department and may be entered as the final order of the DSC in this matter.

7. This proposal is conditioned upon acceptance by the DSC. Respondent and the Department expressly reserve the right to further proceedings without prejudice should this Order be rejected.

AGREED TO BY:

_____

Cheryl Wykoff Pezon, Director
Bureau of Professional Licensing
Department of Licensing and
Regulatory Affairs

Dated: _____

AGREED TO BY:

_____

Carl Robert Black, R.Ph.
Respondent

Dated: _____

se

CONTROLLED SUBSTANCE REGISTRATION APPLICATION

Nevada State Board of Pharmacy
985 Damonte Ranch Pkwy, Suite 206 - Reno, NV 89521

Registration Fee: $80.00 (non-refundable money order or cashier's check only)
(This application cannot be used by PA's or APRN's)

First: Maryanne Middle: _____ Last: Phillips Degree: MD

SS#: _____ Date of Birth: (

Practice Name (if any): Precision Surgery Center

Nevada Address: 1701 Wellness Way Suite #: 202

(This must be a practicing address, we will not issue a license to a home address or to a PO Box only)

City: Las Vegas State: Nevada Zip Code: 89102

E-mail: MaryannPhillipsMD@outlook.com Contact E-mail: _____

Work Telephone: (702) 310-9110 Fax: (702) 310-9114

Practitioner License Number: 7635 Specialty: Anesthesiology

Sex: ☐ M or ☑ F

You must have a current Nevada license with your respective BOARD before we will process this application. The Nevada license must remain current to keep the controlled substance registration.

	Yes	No
Been diagnosed or treated for any mental illness, including alcohol or substance abuse, or Physical condition that would impair your ability to perform the essential functions of your license?....	☐	☑
1. Been charged, arrested or convicted of a felony or misdemeanor in any state?	☐	☑
2. Been the subject of a board citation or an administrative action whether completed or pending in any state? ...	☑	☐
3. Had your license subjected to any discipline for violation of pharmacy or drug laws in any state?.....	☑	☐

If you marked YES to any of the numbered questions (1-3) above, include the following information & provide an explanation and documentation:

Board Administrative Action:	State	Date:	Case #:
		/ /	See Attachments

Criminal Action: NONE	State	Date:	Case #:	County	Court

It is a violation of Nevada law to falsify this application and sanctions will be imposed for misrepresentation. I hereby certify that I have read this application. I certify that all statements made are true and correct.

I understand that Nevada law requires a licensed physician who, in their professional or occupational capacity, comes to know or has reasonable cause to believe, a child has been abused/neglected, to report the abuse/neglect to an agency which provides child welfare services or to a local law enforcement agency.

Original Signature, no copies or stamps accepted.

November 4th, 2019
Date

Board Use Only: Date Processed: _____ Amount: 80.00

REVISED: Maryanne Phillips, MD - Controlled Substance Registration Application Explanation of Disciplinary actions.

Board Administrative Action:	State	Date:	Case#:
	CA	2004	09-04-161866

Summary: A Pharmacist Shelton Borrison, working in a Savon Pharmacy, located in an Albertsons Market, in Palm Desert CA, was investigated for insurance fraud.[1] I had a working relationship with this pharmacy because they were a "Target Pharmacy" for a medication we were prescribing. Per the pharmacy rep from Cephalon Pharmaceuticals, we were to use this pharmacy for our patients taking this medication. Without my knowledge, Mr. Borrison was under investigation for insurance fraud by Aetna Insurance company, for excessive billing.[2] It is alleged that Mr. Borrison billed over two hundred thousand dollars ($200,000.00) for prescriptions for a new drug over 18 months for two patients. These patients were my employer's (Dr. Reinhart's) who was the contracted physician to Aetna. I was not a contracted physician with Aetna.

See Attachment #1 09/28/04 Fax from Dept of Insurance, from Brian S, Fraud Division, to Vickie Welch Re: case of fraud.

See Attachment #2 Medical Board of California, Enforcement Program Attorney Diary Re: Case closed due to insufficient evidence.

See Attachment #3 National Practioners Data Bank, Healthcare Integrity and Protection Data Bank RE: Correcting factual inaccuracies in the reporting of actions against Maryanne Phillips, MD. No adverse outcomes. Basis for correction, inaccuracies in the basis of action.

Aetna filed the initial complaint against the pharmacist Borrison, for overbilling. Mr. Borrison's & Savon's council denied the charges of over dispensing of unauthorized prescriptions. It was discovered that Mr. Borrison would call a specific staff member in Dr. Reinhart's office to retrieve a "replacement prescription," alleging the original prescription for these two patients was lost or incorrect. Mr. Borrison would fill both the legal prescription and the replacement prescriptions, keeping one and dispensing one to the patient as prescribed. Mr. Borrison billed for those double prescriptions every month for eighteen months.

During this time, I finished my 1-year contract with Dr. Reinhart and returned to Nevada to practice. During this time, the Attorney General for the State of California (there was no pharmacy board in place at this time to adjudicate the charges) requested the patient files from Dr. Reinhart [4]. It came to my attention that unknown persons within the office I had worked, did not provide the full files as requested by the Attorney General's Office. Dr. Reinhart's staff only provided one side of the two-sided patient documents.

See Attachment #4A Letter from the Attorneys for Maryanne Philips, MD request for records from Roland Reinhardt's, MD office.
See Attachment #4B Letter from Dr. James Marx, Expert Witness.
See Attachment #4C Askren Law Firm representing Maryanne Phillips, MD requesting the missing 600 pages of discovery.

Conclusion
Following the review of the patient's incomplete files, the medical experts surmised I did not perform a complete examination and therefore assuming I committed medical negligence. When this came to my attention, I was able to provide the complete patient files and along with a handwriting expert, provide evidence of my innocence.[3, 4, 5]

See Attachment #5 Handwriting Expert Certification

However, regardless of the absence of a hearing or finalized decision, Deputy Attorney General Samuel Hammond placed me on probation.[6] Regardless of my innocence, it was recommended by the council to comply with the state of California's 2008 probation order.

See Attachment #6 Unsigned CA Probation stipulation.

In 2009 in the process of renewing my Nevada License online, I called my council to inquire how to answer question #3 of the licensure application, "Had your license subjected to any discipline for violation of pharmacy or drug laws in any state?". My legal counsel stated that my case was still pending and "not to mark any box reveling" this information, as mentioned above.

Board Administrative Action: NV Medical Board	State	Date:	Case#:
	NV	2009	

Summary: The medical board basing their decision on the above-documented information, alleged and took action against me for "failing to notify them of disciplinary actions in another state (CA)." However, at the time of these allegations, the state of California stated, "Allegation excessive prescription of narcotics. The case was closed for insufficient evidence on file." The case was dismissed.[2]

See Attachment #2 Medical Board of California, Enforcement Program Attorney Diary.

See Attachment #7 Patients (Fraud Victims): Letter to Maryanne Phillips, MD exonerating her of any wrongdoing. Affidavit Marty Martinez

Based on this erroneous information, Nevada placed me on reciprocal probation until 2012.[7]

See Attachment #8 NV State Board Medical Examiners, Letter to Maryanne Phillips, MD acknowledging her compliance with probation and the stating the case was satisfied.

Summary: In 2010 without my knowledge, a patient stole my prescription pad, and prescriptions for narcotics with my forged signature were circulated to local pharmacies. During the investigation, I was summoned by a medical board investigator to produce my signature to compare to the signature on the prescriptions. After fourteen different tests, it was apparent that the signatures and handwriting were not my own and were forged by persons unknown.[9]

See Attachment #9 LV Metro Police Reports regarding stolen prescription pads

Additionally, the suspect patient had made representations to the investigator that I was providing these prescriptions; he also alleged that we had a personal relationship and that "we partied together." The patient also alleged that he had witnessed me ingest narcotics. Based on this information, the investigator demanded a urine and hair drug test, which proved negative.

I immediately reported this incident to the DEA, and they advised me to "voluntarily" change my DEA number to counteract any further fraud.

Board Administrative Action: NV Medical Board	State	Date:	Case#:
	NV		Unk: Awaiting documentation.

Summary: In 2011, two patients complained to my employer, Dr. A. Nagy that they were erroneously billed for neurosurgery that had not occurred. A medical board investigator presented to the clinic demanding their charts for review. I provided those charts and notes indicating that I had neither charged nor billed for a surgery that did not happen.

Additionally, the medical board investigator alleged there was illegal activity occurring in the shared parking lot. The investigator filed a complaint of illegal activity in the parking lot of my office. Upon notification, I called the Las Vegas Metro Police to investigate the allegations. Nothing further came of this investigation.

In 2012 the CA Medical Board revoked probation which succeeded in revoking my license.[10]

See Attachment #10A State of CA revocation of CA probation
See Attachment #10B State of NV Restores License unrestricted status

In 2013 allegations from the medical board investigator accused me of patient abandonment. The patient in question, presented with a fractured ankle and was treated by me with medication and referred to physical therapy for follow-up treatment. Following the office visit with me and obtaining a prescription of narcotics.

The patient presented to yet another physician for narcotics. Based on this information, I discharged the patient for non-compliance and violation of her narcotics agreement.

Upon discharge, she ran out of my office into the parking lot, screaming that "she is not giving me my medication." The Med Board Investigator was in my parking lot and observed this patient screaming and came to investigate.

Board Administrative Action: NM Medical Board	State	Date:	Case#:
	NM	2013	12-10032-1

These allegations of patient abandonment were later dismissed.

In 2013, based on the California allegations, the New Mexico Board of Medical Examiners, they revoked my inactive license.

See attachment #11 May 23, 2013 Faxed letter from Deputy General Council, NV State Board of Medical Examiners to Kenneth Hogan, Maryanne Phillips, MD council stating revocation was improper.

Board Administrative Action: NV Pharmacy Board	State	Date:	Case#:
	NV	March/2014	14-0C-00064 1B

Summary: In 2014, based on the California allegations, the Nevada Pharmacy Board, deactivated my license.

See attachment #12 Maryanne Phillips council, Dallas Horton's Letter to NV State Medical Board. Summary of California case.

Board Administrative Action: NV Medical Board	State	Date:	Case#:
	NV	Nov/2014	12-10032-1

On May 27, 2015, the supreme Court of State of Nevada, case number 67538 ruled that the Medical Board Claims be dismissed and ordered the NV Pharmacies general counsel to grant unrestricted Controlled substance registration for anesthesiology.

Subsequently in June of 2015, my NV Medical Board License was reissued without restriction until September 9, 2016. [13]

See Attachment #10B State of NV Restores License unrestricted status

On September 9, 2016 My attorney, Mr. Hunt notified me that the Medical Board put me back on probation without explanation and restricted from outpatient pain management.
At the time of this decision, I was not working in the medical field.

On December 1, 2017, the NV Medical Board granted cessation of probation. The restriction for outpatient pain management was continued.

Per my council for the NV Medical Board hearing, Mr. Ken Hogan comments on the proceeding:

In February 2018, following the end of my probation, the NV Medical Board brought another complaint alleging numerous false (and as the hearing showed, incredibly poorly investigated) allegations. The allegations included, but were not limited to baseless assertions that I used a fictitious name while serving as the Medical Director of an active clinic on Wigwam Parkway, where I supposedly pressured "my" employees to prescribe controlled substances and otherwise facilitated the distribution and sale of controlled substances, while falsifying medical records. The case came to a formal hearing (the transcript of which is available upon your request). In the end, after the Board had presented its case, there was no credible evidence that I had ever used a fictitious name as part of any licensed conduct, that I was not even practicing medicine during the time relevant to the complaint (let alone acting as the Medical Director of a clinic), no evidence I had any financial interest whatsoever in the Wigwam clinic, no evidence that I had pressured the prescription of or facilitated the distribution of controlled substances, and no evidence that I had falsified any records. Before we even presented the defense, the Board settled the matter upon a consent agreement as to my having removed post-it notes from records, and having failed to make records available to the Board upon their request (given that they were requesting records that I did not have in my possession and control, and on patients that I had never even treated), and failure to comply with the order of the Board directing the impossibility of my production of records that I did not possess. All the claims about fictitious names, acting as a Medical Director, pressuring my supposed employees to overprescribe, facilitating sale and distribution of controlled substances, and falsifying records were all abandoned by the Board before I had even presented defense evidence, which says much about the infirmed investigation and the absurdity of the resulting claims. The settlement was approved by the Board on June 7, 2019.

See Attachment #13 May 27th 2015 Settlement Agreement Dismissing Appeal. Settlement Agreement stipulates that NV Pharmacy Board Approval for Reissue of Controlled Substance Registration for Anesthesia
See Attachment #13B Approved List of Controlled Medications for Anesthesia

Final Conclusion
In conclusion regardless of any factual basis, my license was revoked in CA. Based on that erroneous information a chain of events that resulted in my loss or restriction of my Medical License in CA, NM.

In all instances I was found innocent of any allegations against my character, integrity and ethics. The superior Court of the State of California County of San Diego, case # 37-2014-00026553-CU-WM-CTL orders the reinstatement of my license without restriction in California. I am currently working with council to have my CA license returned unrestricted.

I have also been cooperating with the state of NM and my license is currently pending reissue. I am taking classes and working as an anesthesiologist to keep current on procedures and protocols to recapture my licenses and certifications.

This information is provided to the best of my knowledge. I am in contact with the relevant CA and NM licensing boards for a complete set of documentation.

Introduc...

Nevada State Board of Pharmacy

985 DAMONTE RANCH PARKWAY • SUITE 206 • RENO, NEVADA 89521
(775) 850-1440 • 1-800-364-2081 • FAX (775) 850-1444
E-mail: pharmacy@pharmacy.nv.gov • Website: bop.nv.gov

June 17, 2019

Maryanne Phillips, MD
10620 Southern Highlands Pkwy #110-251
Las Vegas, NV 89141

Dear Dr. Phillips:

We are in receipt of your application for a controlled substance license.

After review of the application and documentation, it has been determined you will be required to personally appear before the board at a regularly scheduled board meeting for their consideration to approve or deny your controlled substance registration.

Your required appearance has been scheduled for:

Thursday, July 18, 2019
9:30 am or soon thereafter
Hilton Garden Inn
7830 S Las Vegas Blvd
Las Vegas, Nevada

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

<u>You are required to appear at the meeting</u>. If you do not show up to the meeting and have not contacted the board prior to the appearance, the board may take action on the application in your absence.

If you have any questions, please feel free to contact us.

Sincerely,

Candy M Nally

Candy M. Nally
Licensing Specialist

CASE NO. 14-OC-00064 1B

DEPT. I

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF CARSON CITY

MARYANNE PHILLIPS,

Petitioner

vs.

NEVADA STATE BOARD OF PHARMACY,

Respondent.

PETITIONER'S REPLY BRIEF

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TABLE OF CONTENTS

Page(s)

MEMORANDUM OR POINTS AND AUTHORITIES....1

I. INTRODUCTION....1

II. ARGUMENT....2

A. The Pharmacy Board Failed to Rebut Dr. Phillips's Showing that its Findings are Contrary to the Law and are not Supported by Substantial Evidence....2

B. It was Reversible Error for the Pharmacy Board to Rely Upon Unauthenticated and Inadmissible Documents....7

1. Exhibits A through E are Not Admissible Under the General Exception To the Inadmissiblity of Hearsay....7

2. Exhibits A through E are Inadmissible Under Nevada Law....8

3. The Pharmacy Board Offered No Foundation that would Support a Finding that Exhibits A through E are Admissible as Public Records....8

C. The Pharmacy Board's Decision Must be Set Aside because the California Board's Findings do not Provide Grounds for Discipline in Nevada as a Matter of Law....9

D. The Pharmacy Board's Failure to Give Notice of, or ever Identify, the Precise Grounds that Purportedly Warranted Discipline in Nevada Violates Dr. Phillips's right to Procedural Due Process....12

III. CONCLUSION....14

TABLE OF AUTHORITIES

Case **Page(s)**

Estate of Arrowwood By & Through Loeb v. State,
894 P.2d 642 (Alaska 1995).....6

New Hampshire v. Maine,
532 U.S. 742 (2001).....4

People v. Castellanos,
219 Cal. App. 3d 1163, 269 Cal. Rptr. 93 (Ct. App. 1990).....6

Rissetto v. Plumbers &Steamfitters Local 343,
94 F.3d 597 (9th Cir. 1996).....4

State ex rel. State Bd. of Equalization v. Barta,
124 Nev. 612, 188 P.3d 1092 (2008).....3

Transcraft, Inc. v. Galvin, Stalmack, Kirschner & Clark,
39 F.3d 812 (7th Cir. 1994).....6

TABLE OF AUTHORITIES [CONT'D.]

Page(s)

California Business and Professional Code

Section 2261 9,10

Section 2303 10

District Court Rules

DCR 13(3) 2

Federal Rules of Evidence

FRE 804(b) 6

Nevada Revised Statutes

NRS 51.035 3,6

NRS 51.045(1) 3,6

NRS 51.065 8

NRS 51.075(1) 7

NRS 51.155 8,9

NRS 233B.121(2)(c) 13

NRS 233B.123(1) 8

NRS 639.210 10,11,13

NRS 639.210(1) 13

NRS 639.210(2) 13

NRS 639.210(10) 13

NRS 639.210(14) 1,2,4,6,9,10,11,12

NRS 639.244 5

NRS 639.244(2) 5

NRS 639.248 2,3,4,6

NRS 639.255 12

TABLE OF AUTHORITIES [CONT'D.]

Page(s)

Nevada Rules of Civil Procedure

NRCP 8(d).....5

Other References

Black's Law Dictionary (9th ed. 2009).....10

Petitioner Maryanne Phillips, by and through her counsel of record, Gordon Silver, respectfully files her Reply Brief. This brief is supported by the attached memorandum of points and authorities and all papers and pleadings on file herein.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

The Pharmacy Board's actions in this case demonstrate that it plays fast and loose with the statutes governing its administrative proceedings. In fact, the Board's inconsistent positions, reliance on documents and new evidence it indisputably never considered, and refusal to even identify the grounds that allegedly warranted discipline in Nevada demonstrate that the Board has no interest in ensuring Dr. Phillips is treated fairly under the law. Its only concern is to uphold its unlawful decision and revoke Dr. Phillips's Controlled Substance Registration simply because its counsel claimed the existence of a violation of Nevada law. The Pharmacy Board's fundamentally erroneous decision should be set aside.

The Pharmacy Board revoked Dr. Phillips's Controlled Substance Registration solely because Dr. Phillips received discipline in California. However, it is undisputed that the Pharmacy Board relied entirely on unauthenticated hearsay evidence. Thus, as a matter of Nevada law, the Pharmacy Board's findings are insufficient.

Nevertheless, the Pharmacy Board urges this Court to ignore its findings and look at portions of the record it never actually considered. The Pharmacy Board's *post hoc* rationale for its arbitrary decision is unavailing. Even if the Court were to accept the Pharmacy Board's fiction that it relied on documents that were never presented at the hearing or even mentioned, there is no non-hearsay evidence in the record. The decision must be set aside.

Perhaps most egregiously, the Pharmacy Board utterly disregards the requirement that disciplinary action must be supported by **grounds that would warrant discipline in Nevada.** *See* NRS 639.210(14). The Pharmacy Board does not and cannot identify the **specific grounds** that they found warranted disciplining Dr. Phillips in Nevada. Instead, it cites to mere **examples** of grounds that could warrant discipline in Nevada. Given the Pharmacy Board's steadfast refusal to even identity the precise grounds that warranted discipline under Nevada law, it is

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apparent that the Pharmacy Board's findings are insufficient. In other words, the Pharmacy Board cannot find that the California Board disciplined Dr. Phillips on grounds that would warrant discipline in Nevada when the Pharmacy Board does not even know what those precise grounds are.

The Pharmacy Board's failure to identify the specific grounds that warranted discipline in Nevada is a blatant violation of Dr. Phillips's due process rights. In fact, as of the date of this Reply Brief, Dr. Phillips has no knowledge whatsoever of the basis that would allow her to be disciplined in Nevada. The Pharmacy Board cannot continue to blatantly ignore Nevada law. Its decision should be set aside.

II. ARGUMENT

The Pharmacy Board disciplined Dr. Phillips solely because she was disciplined in California. However, the Pharmacy Board continues to disregard the requirements of Nevada law. Specifically, the Pharmacy Board ignores the fact that, under Nevada law, a finding that is based solely on hearsay is insufficient. NRS 639.248. The Pharmacy Board also ignores the rules of evidence and the requirement that evidence be properly authenticated. And, the Pharmacy Board ignores the requirement that reciprocal discipline is only available if Dr. Phillips was disciplined in California on **grounds that would warrant discipline in Nevada**. *See* NRS 639.210(14). Each of these issues is addressed separately below.

A. The Pharmacy Board Failed to Rebut Dr. Phillips's Showing that its Findings are Contrary to the Law and are not Supported by Substantial Evidence.

In her Opening Brief, Dr. Phillips demonstrated that the Pharmacy Board's findings are insufficient as a matter of Nevada law because they are based solely on hearsay (whether admissible or inadmissible hearsay). (Opening Brief at 14-16) (citing NRS 639.248). The Pharmacy Board does not dispute this, and thus admits its decisions should be set aside on this basis. *See* DCR 13(3) ("Failure of the opposing party to serve and file his written opposition may be construed as an admission that the motion is meritorious and a consent to granting the same.").

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Regardless, as discussed in the Opening Brief, the Pharmacy Board may not rely solely on hearsay evidence to support a finding. *See* NRS 639.248 ("hearsay evidence may be admitted for the purpose of supplementing or explaining any direct evidence **but is not sufficient in itself to support a finding.**") (emphasis added). Here, the Pharmacy Board's March 6, 2014, Order expressly states that its findings are based entirely on the evidence presented at the hearing and the findings made by the California Board. (ROP135.) In fact, the only evidence the Pharmacy Board presented and considered at the hearing were the documents allegedly relating to the California proceedings, which were marked as Exhibits A through E.[1] (ROP134.) The Pharmacy Board does not and cannot dispute that this documentary evidence consists entirely of hearsay (whether admissible or inadmissible hearsay). *See* NRS 51.035, NRS 51.045(1) (Hearsay is any out of court "statement offered in evidence to prove the truth of the matter asserted."). As such, the Pharmacy Board's findings are insufficient as a matter of law and must be set aside. *See* NRS 639.248.

Ignoring Dr. Phillip's argument that the only evidence was hearsay, the Pharmacy Board claims that looking at the "whole record" somehow demonstrates the decision is supported by substantial evidence, even if the Court excluded Exhibits A through E. (Answering Brief at 9-12.) This argument is untenable.

As a threshold matter, the Pharmacy Board cannot raise this new argument for the first time on judicial review. The Nevada Supreme Court has held that "a party waives an argument made for the first time to the district court on judicial review." *State ex rel. State Bd. of Equalization v. Barta*, 124 Nev. 612, 621, 188 P.3d 1092, 1098 (2008). In this case, at the administrative hearing, the Pharmacy Board's counsel argued that all the evidence was presented in Exhibits A through F and "**there was no other evidence.**" (ROP062:1-2) (emphasis added). Thus, the Pharmacy Board cannot now raise its new argument for the first time. As such, the Pharmacy Board's new arguments, appearing at pages 9 through 12 of its Answering Brief, have been waived and should not be considered by this Court.

[1] The Pharmacy Board also admitted the affidavit of its general counsel as Exhibit F.

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Second, the Pharmacy Board should also be judicially estopped from changing its position on this Petition for Judicial Review. *See Rissetto v. Plumbers & Steamfitters Local 343*, 94 F.3d 597, 600 (9th Cir. 1996) ("Judicial estoppel, sometimes also known as the doctrine of preclusion of inconsistent positions, precludes a party from gaining an advantage by taking one position, and then seeking a second advantage by taking an incompatible position."). The Pharmacy Board previously accepted its counsel's argument that there was no evidence other than Exhibits A through F and based its findings on that hearsay evidence. (ROP135.) Now, realizing that its findings are insufficient as a matter of law, the Pharmacy Board claims the existence of additional "evidence" it never actually considered. The Pharmacy Board should be estopped from changing its position and now taking its current contradictory position. *See New Hampshire v. Maine*, 532 U.S. 742, 749 (2001) ("[J]udicial estoppel, 'generally prevents a party from prevailing in one phase of a case on an argument and then relying on a contradictory argument to prevail in another phase.'") (quoting *Pegram v. Herdrich*, 530 U.S. 211, 227, n.8 (2000)). Allowing the Pharmacy Board to rely on this alleged additional evidence is prejudicial to Dr. Phillips as she had no opportunity to rebut the alleged evidence at the hearing.

Finally, the Pharmacy's Board's *post hoc* attempt at rationalizing its arbitrary and capricious findings is unavailing. First, the Pharmacy Board claims its findings are supported by some non-existent admissions allegedly made by Dr. Phillips in her Answer and Notice of Defense. (Answering Brief at 10) (citing ROP026-30.) The Pharmacy Board quotes several innocuous sentences from Dr. Phillips's Notice of Defense, none of which admits that her California license was revoked **on grounds that would warrant discipline in Nevada.** *See id.* The Pharmacy Board's reliance on Dr. Phillips's Answer and Notice of Defense is misplaced.

The Answer and Notice of Defense does not constitute direct evidence that is admissible in a legal proceeding, and, in fact, it was not actually admitted into evidence or even discussed at Dr. Phillips's hearing. *See* (ROP052-112); *see also* NRS 639.248. More importantly, however, the Answer and Counterclaim does not contain any admission of fact that would support revocation of Dr. Phillips's Controlled Substance Registration under NRS 639.210(14). Instead, in her Notice of Defense, Dr. Phillips merely recognized that she had faced previous disciplinary

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actions and that her California license was ultimately revoked. (ROP026-27.) However, there is nothing in her Answer and Notice of Defense that identifies the grounds for which Dr. Phillips was allegedly disciplined in California nor does it identify any factual basis that would support discipline in Nevada.

Next, the Pharmacy Board also incorrectly argues that Dr. Phillips admitted most of the allegations in the Accusation by not specifically denying them, but it does not identity any specific allegation it claims should be deemed admitted. (Answering Brief at 11.) The Pharmacy Board is incorrect and ignores its governing statutes. Dr. Phillips was not required to specifically admit or deny the allegations in the Accusation and this new argument, raised for the first time on judicial review, should be disregarded.

The purpose of the Notice of Defense and the effect of the failure to file a Notice of Defense is set forth in NRS 639.244. Section 639.244 is titled, "Notice of Defense: Form; **effect of failure to file.**" NRS 639.244 (emphasis added). Section 639.244 provides as follows:

> The Notice of Defense must be signed by the respondent or his or her attorney under penalty of perjury. **Failure to file a Notice of Defense constitutes a waiver of the respondent's right to a hearing, but the Board may grant a hearing.**

NRS 639.244(2) (emphasis added). Thus, pursuant to Section 639.244, the Notice of Defense is required in order to guarantee the respondent's right to a hearing. However, even if no Notice of Defense is filed, the Pharmacy Board may still grant a hearing. Thus, contrary to the Pharmacy Board's argument and Nevada Rule of Civil Procedure 8(d), which is not applicable in proceedings before an administrative agency, a respondent is not deemed to have admitted any allegation made by the Pharmacy Board that is not specifically denied. Instead, if a Notice of Defense is filed, a respondent is entitled to a hearing and is not precluded from presenting any factual or legal defense available under the law.

Furthermore, even if the failure to specifically deny an allegation could somehow be deemed an admission, Dr. Phillips's Answer and Notice of Defense constitutes a general denial. In her Notice of Defense, Dr. Phillips specifically stated that the Pharmacy Board's disciplinary action is flawed. (ROP026.) And, Dr. Philips requested that the Pharmacy Board not take any

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disciplinary action due to numerous issues that were outlined in her Notice of Defense. *See* (ROP030.) The Pharmacy Board's *post hoc* attempt at justifying its fatally flawed actions is unpersuasive.

Next, the Pharmacy Board argues that the partial transcript from Dr. Phillips's California hearing is direct evidence that is supported by Exhibits A through E. (Answering Brief at 11-12) (citing ROP26-30, 33-050). This argument, again improperly raised for the first time on judicial review, is incorrect as a matter of law. Like the Pharmacy Board's other new arguments discussed above, it is undisputed that the Pharmacy Board did not actually rely on the partial transcript, which was never presented to the Pharmacy Board at the hearing or admitted into evidence.

Moreover, a transcript of proceedings is, by definition hearsay. *See* NRS 51.035, NRS 51.045(1). A transcript contains out of court statements that are being offered into evidence for the truth of the matter asserted.[2] *See Transcraft, Inc. v. Galvin, Stalmack, Kirschner & Clark*, 39 F.3d 812, 818 (7th Cir. 1994) ("A trial transcript is hearsay (though sometimes admissible, under an exception to the hearsay rule, Fed. R. Evid. 804(b)(1)) if offered to prove the truth of testimony presented at trial."); *Estate of Arrowwood By & Through Loeb v. State*, 894 P.2d 642, 647 (Alaska 1995); *People v. Castellanos*, 219 Cal. App. 3d 1163, 1173, 269 Cal. Rptr. 93, 99 (Ct. App. 1990). Thus, even if the Pharmacy Board had considered this transcript, which it did not, the transcript is still hearsay and insufficient as a matter of law to support the Pharmacy Board's findings.

In short, even if this Court accepts the Pharmacy Board's fiction that it relied upon alleged additional evidence (which it expressly did not), and that evidence was admitted into evidence (which it indisputably was not), there is still no direct evidence of the **grounds** for which Dr. Phillips was disciplined in California. Under Nevada law, there must be direct evidence that Dr. Phillips was disciplined in California **on grounds that would warrant discipline in Nevada.** *See* NRS 639.248; *see also* NRS 639.210(14). No such direct evidence

[2] In this case, the transcripts were not offered into evidence at the administrative hearing.

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exists and the March 6, 2014, Order should be set aside in its entirety.

B. It was Reversible Error for the Pharmacy Board to Rely upon Unauthenticated and Inadmissible Documents.

In addition to the fact that the findings were insufficient because they were based solely on hearsay, it was error for the Pharmacy Board to admit Exhibits A through E in the first instance because they were not properly authenticated and were not admissible into evidence. (Opening Brief at 11-14.) Here, the Pharmacy Board does not dispute Dr. Phillips's showing that Exhibits A through E were not properly authenticated and its decisions should be set aside on this basis. Instead, the Pharmacy Board argues that the exhibits were admissible. Each of the Pharmacy Board's incorrect arguments will be addressed in turn.

1. Exhibits A through E are Not Admissible under the General Exception to the Inadmissibility of Hearsay.

The Pharmacy Board argues that Exhibits A through E are admissible under the general exception to the inadmissibility of hearsay. The Pharmacy Board contends these unauthenticated documents are admissible because they are copies of the official record. (Answering Brief at 13.) It further argues that Dr. Phillips presented no evidence that the copies are incorrect. *Id.* The Pharmacy Board's analysis shows its misunderstanding of the rules of evidence and its burden of proof. It is not Dr. Phillips's burden to demonstrate the documents are inadmissible. Instead, it is the burden of the Pharmacy Board, as the party offering the evidence, to demonstrate the evidence is admissible. The Pharmacy Board offered no foundation that Exhibits A through E are copies of genuine originals or that special circumstances exist that offer assurances of accuracy. The Pharmacy Board simply failed to establish the prerequisites for admissibility.

NRS 51.075(1) provides as follows: "A statement is not excluded by the hearsay rule if its nature and the special circumstances under which it was made offer assurances of accuracy not likely to be enhanced by calling the declarant as a witness, even though the declarant is available."

Here, Exhibits A through E offer no assurances of accuracy. As discussed in the Opening Brief, Dr. Phillips does not accuse the Pharmacy Board of falsifying any document. However, it

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is undeniably true that the Pharmacy Board, and its counsel, do not have personal knowledge of the California proceedings. The Pharmacy Board's counsel was not a party to those proceedings and had no basis for asserting that the documents were copies of genuine originals. There is no testimony regarding the accuracy of the website from which they were allegedly obtained or demonstrating that the website even contains official California records. Given that the exhibits have never been properly certified, there are no assurances of accuracy that Exhibits A through E constitute complete and accurate records of the California proceedings. They are simply documents that a person with no personal knowledge printed from the Internet.

2. **Exhibits A through E are Inadmissible under Nevada Law.**

The Pharmacy Board next argues that Exhibits A through E are admissible pursuant to NRS 233B.123(1) because they are documents that would allegedly be relied upon by any reasonable and prudent person. (Answering Brief at 14.) In making this argument, the Pharmacy Board ignores the plain language of NRS 233B.123(1). Pursuant to Section 233B.123(1), evidence is not admissible where it is precluded by statute. In Nevada, hearsay is inadmissible unless there is an exception to the rule of inadmissibility. NRS 51.065. In this case, there is no applicable exception. Thus, the evidence is precluded by statute and inadmissible under NRS 233B.123(1).

3. **The Pharmacy Board Offered No Foundation that would support a Finding that Exhibits A through E are Admissible as Public Records.**

Finally, the Pharmacy Board argues that Exhibits A through E are admissible public records under NRS 51.155. In making this argument, the Pharmacy Board again improperly attempts to shift the burden to Dr. Phillips to show the document lack trustworthiness. This argument is quite irrelevant and further shows the Pharmacy Board's disregard of the requirements of Nevada law.

To be admissible under NRS 51.155, the Pharmacy Board had the burden to show that the documents set forth:

1. The activities of the official or agency;

2. Matters observed pursuant to duty imposed by law; or

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> 3. In civil cases and against the State in criminal cases, factual findings resulting from an investigation made pursuant to authority granted by law, unless the sources of information or the method or circumstances of the investigation indicate lack of trustworthiness.

NRS 51.155. The Pharmacy Board made no showing whatsoever that Exhibits A through E fall within any of these subsections to NRS 51.155. And, in its Answering Brief, the Pharmacy Board does not and cannot point to any showing in the record that would establish the admissibility of these documents as public records. It was error for the Pharmacy Board to admit the documents over Dr. Phillips's objection and its Order should be set aside.

C. The Pharmacy Board's Decision Must be Set Aside because the California Board's Findings do not Provide Grounds for Discipline in Nevada as a Matter of Law.

In her Opening Brief, Dr. Phillips correctly demonstrated that the California Board purportedly disciplined Dr. Phillips for an alleged violation of Section 2261 of the California Business and Professional Code. (Opening Brief at 8-9.) The Pharmacy Board attempts to obscure the grounds for which Dr. Phillips was disciplined through misdirection. It asks this Court to ignore the actual reason Dr. Phillips was disciplined in California and instead focus on the California Board's factual findings. The Pharmacy Board's analysis is contrary to Nevada law. And, regardless, the California Board's factual findings also do not provide any grounds to disciplining Dr. Phillips in Nevada.

Dr. Phillips was allegedly disciplined for violating NRS 639.210(14). Section 639.210(14) provides that a person may be disciplined if she "[h]as had a certificate, license or permit suspended or revoked in another state **on grounds** which would cause suspension or revocation of a certificate, license or permit in this State." NRS 639.210(14) (emphasis added).

The first question for the Court is whether the term "grounds" refers to the California Board's legal conclusion or its factual findings. The Pharmacy Board urges this Court to ignore the California Board's legal conclusions and instead only focus on its factual findings. (Answering Brief at 16:3-12.) Ironically, the Pharmacy Board, only one paragraph later, admits

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that the phrase "grounds for revocation" refers to the legal basis under Nevada law that would warrant discipline and not the factual conduct. (Answering Brief at 16:14-19) (citing NRS 639.210). The Pharmacy Board's inconsistent positions demonstrate its complete disregard for Nevada law and Dr. Phillips's due process rights. The Pharmacy Board is simply interested in revoking Dr. Phillips's Controlled Substance Registration, regardless of whether a legal basis exists for revocation.

Black's Law Dictionary defines the word "ground" as "[t]he reason or point that something (as a legal claim or argument) relies on for validity." Black's Law Dictionary (9th ed. 2009). In this case, the California Board disciplined Dr. Phillips for allegedly violating California Business and Professions Code sections 2303 and 2261. (ROP121.) The California Board did not discipline her for allegedly making false statements. *Id.* The discipline was only imposed because the false statements allegedly violated section 2303 and 2261. *Id.* Thus, the grounds, or reasons, for which California Board relied upon for disciplining Dr. Phillips was the alleged violation of Section 2303 and 2261. This is entirely consistent with the Pharmacy Board's assertion that the "grounds for revocation" in Nevada are found in NRS 639.210. (Answering Brief at 16-17.)

As explained in Dr. Phillips's Opening Brief, the California Board's did not revoke Dr. Phillips's license <u>on grounds</u> that would cause suspension or revocation of a certificate, license or permit in the State of Nevada. (Opening Brief at 7-11); *see also* NRS 639.210(14). The Pharmacy Board chose to initiate disciplinary proceedings for an alleged violation of NRS 639.210(14) and not for any other provision of Section 639.210.[3] As such, it was the Pharmacy Board's burden to prove that the reason Dr. Phillips was discipline in California also provides a reason to discipline her in Nevada. It clearly does not as the actual basis for discipline in California is not a basis for discipline in Nevada.

Nevertheless, the Pharmacy Board contends that "[e]xamples of grounds" for Dr. Phillips's discipline include: (1) being guilty of unprofessional conduct, which includes

[3] The Pharmacy Board's refusal to identify the specific basis that warranted discipline in Nevada is an egregious violation of Dr. Phillips's due process rights.

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performing or in any way being a party to any fraudulent or deceitful practice or transaction; (2) obtaining any certificate, certification, license or permit by filing an application, or any record, affidavit or other information n support thereof, which is false or fraudulent; and (3) being not of good moral character. (Answering Brief at 16.) Refusing to identify the actual grounds for discipline in Nevada, the Pharmacy Board cavalierly states, "[t]hose are just *examples* to show that the elements of NRS 639.210(14) are satisfied here." *Id.* at 16-17. The Pharmacy Board even has the audacity to state it is not necessary to cite the supposed "numerous other statutes and regulations" Dr. Phillips allegedly violated.[4] And, the Pharmacy Board does not even attempt to identify any specific findings that allegedly support any of these "examples of grounds" for discipline.

Because the Pharmacy Board has never articulated the precise grounds that warranted discipline in Nevada, it is impossible for Dr. Phillips to demonstrate precisely why the California Board's findings are insufficient. Nevertheless, even a cursory review of the California Board's Order demonstrates that it did not find Dr. Phillips was a party to any fraudulent or deceitful practice or transaction. (ROP114-122.) The California Board did not find that Dr. Phillips **obtained** any certificate or license by filing a false or fraudulent information; Dr. Phillips already had her medical license. *Id.* And, the California Board did not find that Dr. Phillips was not of good moral character. *Id.*

The Pharmacy Board could have accused Dr. Phillips of violating any portion of NRS 630.210 it believed applied. However, it chose not to accuse Dr. Phillips of any of the "examples of grounds" that allegedly warrant discipline. Instead, it chose to rely on NRS 639.210(14) and the California Board's disciplinary action. Thus, the Pharmacy Board cannot expand upon the grounds for which Dr. Phillips was disciplined in California.

Finally, the Pharmacy Board now admits that it "*did not find* [*Dr. Phillips*] *guilty* of violating" any of the "examples of grounds" warranting discipline. (Answering Brief at 19.) Importantly, if the Pharmacy Board did not find specific grounds that warranted discipline in

[4] The Pharmacy Board's complete disregard for Dr. Phillips's due process right to know the basis upon which her Controlled Substance Registration was revoked is astounding.

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Nevada, its findings are insufficient to maintain revocation under NRS 639.210(14) as a matter of law. Under the statute, the Pharmacy Board had the burden of proving that grounds existed to discipline Dr. Phillips in Nevada. It cannot find the existence of grounds for discipline without identifying what those grounds. Its findings are insufficient and must be set aside for this reason alone.

In short, the California disciplinary action does not provide grounds for discipline in Nevada. The Pharmacy Board's Order should be set aside and any further proceedings against Dr. Phillips should be dismissed.

D. <u>The Pharmacy Board's Failure to Give Notice of, or ever Identify, the Precise Grounds that Purportedly Warranted Discipline in Nevada Violates Dr. Phillips's Right to Procedural Due Process</u>.

Dr. Phillips was purportedly disciplined by the Pharmacy Board for violating NRS 639.210(14). Section 639.210(14) does not, in and of itself, provide a basis to impose discipline. Instead, it requires that a person was disciplined elsewhere "on grounds which would cause" discipline in Nevada. Thus, Section 639.210(14) requires a finding that some independnet basis exists for discipline under Nevada law. Here, the Pharmacy Board has never identified the precise grounds that would allegedly cause discipline in Nevada. As such, Dr. Phillips had no ability to provide a meaningful defense because the Pharmacy Board has never identified the underlying basis that would permit discipline in Nevada pursuant to NRS 639.210(14). Under the due process clause, Dr. Phillips is not required to guess as to the precise basis for which her Controlled Substance Registration was purportedly revoked.

The Pharmacy Board incorrectly argues that it provided adequate notice of the violation at issue by citing NRS 639.210(14) and/or NRS 639.255. (Answering Brief at 19.) According to the Pharmacy Board, it met its burden of proof that that Dr. Phillips was disciplined in California on grounds that would cause discipline in Nevada by "citing examples of Nevada statutes and regulations that Dr. Philips' actions [allegedly] violate." *Id.* (emphasis added). The Pharmacy Board is clearly incorrect.

It is undisputed that Nevada law requires an agency to provide notice that includes a

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"reference to the particular sections of the statutes and regulations involved." NRS 233B.121(2)(c). It is further undisputed that the Pharmacy Board has never provided any specific basis that allegedly warranted discipline under Nevada law. Thus, the relevant question before this Court is whether Dr. Philips was denied procedural due process as a result of the Pharmacy Board's failure to give notice of, or even identify, the specific grounds that allegedly warranted discipline.

Here, Dr. Phillips was indisputably denied a constitutionally adequate opportunity to prepare. Nevada law permits discipline for a diverse range of activities. *See* NRS 639.210. Conduct that warrants discipline ranges from being "not of good moral character," NRS 639.210(1), to "habitual incompetence," NRS 639.210(2), to obtaining any certificate, certification, license or permit by filing an application, or any record, affidavit or other information in support thereof, which is false or fraudulent, NRS 639.210(10).

Obviously, the nature of the alleged violation of Nevada law determines the evidence that will be presented at the administrative hearing. In the context of this case, there is a difference between allegedly making false statements, as alleged by the California Board, and being of not good moral character, which the Pharmacy Board cites as an "example" of grounds that warranted discipline. At the administrative hearing, Dr. Phillips had no way of knowing her moral character was being challenged. Had she known that this was a potential basis for the Pharmacy Board to find grounds existed for discipline under Nevada law, she would have had an opportunity to present evidence of her good moral character.

The same analysis is applicable to all nineteen subsections of NRS 639.210. As a second example, Dr. Phillips cannot provide a meaningful defense to the allegation that she obtained her license by providing false or fraudulent information when there are no allegations that of any wrongdoing relating to the time when she actually obtained any certificate or license. Had Dr. Phillips known this subsection was potentially at issue, she could have provided evidence that when she originally obtained her licenses, she provided only true and correct information. However, without knowing that this provision was at issue, Dr. Phillips could not provide a meaningful defense.

The Pharmacy Board's actions can be analogized to a complaint in a proceeding before this Court. There can be no dispute that a due process violation would occur if the Court awarded a Plaintiff damages for negligence when the Plaintiffs' complaint only contains a claim for breach of contract. In that scenario, the Defendant had no notice that it also had to defendant against a negligence claim. Likewise, Dr. Phillips had no notice of the grounds upon which discipline could be imposed in Nevada and still does not know what those grounds are.

III. CONCLUSION

For all of the foregoing reasons, Dr. Phillips respectfully requests that this Court set aside the Pharmacy Board's March 6, 2014, Findings of Fact, Conclusions of Law and Order in its entirety.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 20th day of August, 2014.

GORDON SILVER

MICHAEL V. CRISTALLI
Nevada Bar No. 6266
mcristalli@gordonsilver.com
JUSTIN J. BUSTOS
Nevada Bar No. 10320
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Fax: (775) 786-0131

Attorneys for Petitioner Maryanne Phillips

CERTIFICATE OF SERVICE

I certify that I am an employee of GORDON SILVER, and that on this date, pursuant to NRCP 5(b), I am serving a true and correct copy of the attached **PETITIONER'S REPLY BRIEF** on the parties as set forth below:

XXX Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, Reno, Nevada, postage prepaid, following ordinary business practices

____ Certified Mail, Return Receipt Requested

____ Via Facsimile (Fax)

XXX Via E-Mail

____ Placing an original or true copy thereof in a sealed envelope and causing the same to be personally Hand Delivered

____ Federal Express (or other overnight delivery)

addressed as follows:

S. Paul Edwards
Nevada State Board of Pharmacy
431 W. Plumb Lane
Reno, NV 89509
pedwards@pharmacy.nv.gov

DATED this 20th day of August, 2014.

An Employee of GORDON SILVER

Gordon Silver
Attorneys At Law
Suite 940
100 W. Liberty Street
Reno, Nevada 89501

ATTACHMENTS
#1-13 LOCATED
IN ACCORDIAN
FILE

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE

Fraud Division
9674 ARCHIBALD AVENUE, SUITE 100
RANCHO CUCAMONGA, CA 91730
(909) 919-2200
(909) 980-2196(FAX)
www.insurance.ca.gov

John Garamendi, *Insurance Commissioner*
Dale Banda, *Division Chief*
Kathryn Scholz, *Bureau Chief, Northern*
Jerry Treadway, *Bureau Chief, Central*
John Standish, *Bureau Chief, Southern*

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Date: 9-28-04 Time: 1540 # of Pages: 5 (INCLUDING COVER SHEET)

TO:
Name/Title: Vickie Wellcit
Office:
FAX Number: Telephone Number:

FROM:
Name/Title: Brian Scutieks
Office:
FAX Number: Telephone Number:

MESSAGE/INSTRUCTIONS

☐ Urgent ☐ For Review ☐ FYI ☐ Please Reply ☐ Assignment

COMMENTS: Maryann P HILLIPS, MD 155.97 DOB:

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE

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Jerry Treadway, *Bureau Chief, Central*
John Standish, *Bureau Chief, Southern*

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Date: 9-28-04 Time: 1540 # of Pages: 5 (INCLUDING COVER SHEET)

TO:
Name/Title: Vickie Welcit
Office:
FAX Number: Telephone Number:

FROM:
Name/Title: Brian Scottieks
Office:
FAX Number: Telephone Number:

MESSAGE/INSTRUCTIONS

☐ Urgent ☐ For Review ☐ FYI ☐ Please Reply ☐ Assignment

COMMENTS: Marjorie P. HILLIPS, MD 155.97 DOB: / /

ATTACHMENTS
#1-13 LOCATED
IN ACCORDIAN
FILE

MEDICAL BOARD OF CALIFORNIA

COMMENT/ACTION/APPROVAL LOG

Subject: Phillips, Maryanne, Title: MD

File #: 09-04-161866

VIOLATION: 725 B&P

PRIORS: 09-02-138427 (CLOSED F/E) 9/30/03 QUALITY OF CARE

SUMMARY OF CURRENT ALLEGATIONS: INTERNAL COMPLAINT ALLEGED SUBJ EXCESSIVELY PRESCRIBED NARCOTICS.

DATE	COMMENT/ACTION/APPROVAL	APPROVED
8/21/04	CASE TO FIELD - SAN BERNARDINO	R. GARCIA

AGO - 1160

F482 MEDICAL BOARD OF CALIFORNIA 10/21/04

PRIOR NAME LIST FOR ALL RECORDS PAGE 1

NAME	LICENSE TYPE/NUMBER	ADDRESS--CITY-------ST	STAT	RECORD NUMBER	REC TP*
PHILLIPS MARK ALAN		2721 WEX CONCORD CA	RRD 1E 2004	161048	C
PHILLIPS MARK ALAN		2721 WEX CONCORD CA	DOS 1E 2004	161048	D
PHILLIPS MARK CHAR	G 61969	PO BOX 1 MYRTLE CRE OR	C36 15 1995	58190	C
PHILLIPS MARVIN D.		209 NORT RIALTO CA	C07 09 1995	58279	C
PHILLIPS MARYANNE	A 63753	5201 BRO LAS VEGAS NV	D02 09 2002	138427	C
PHILLIPS MARYANNE	A 63753	5201 BRO LAS VEGAS NV	INV 09 2004	161866	C

*REC TP:...C/A=COMPL/APP D=DISCP CASE P=PEN/PROB CASE
T=STIPULATION V=CONSERVATORSHIP S=SITE INSP L=CITATION

LAST NAME..... FIRST NAME..... MIDDLE NAME. SFX
PHILLIPS MAR SRCH C

PF5=BKWD 6=FWD 7=PRIORS BY LIC NO

2

MEDICAL BOARD OF CALIFORNIA
ENFORCEMENT PROGRAM
ATTORNEY CASE DIARY

CASE NUMBER: 09-04-161866	SUBJECT: PHILLIPS, MARYANNE MD
OFFICE: SAN BERN.- ERICSON	ATTORNEY: SANFORD FELDMAN

DATE:

11/4/04 New case review. Allegation excessive prescription of narcotics. There is a closed insufficient evidence on file.

CONFIDENTIAL ATTORNEY CLIENT COMMUNICATION
AND ATTORNEY WORK PRODUCT
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DAVID L. THOMAS
www.gdallashorton.com

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CHRISTIAN Z. SMITH
J. BAUER HORTON[F]
[F]Also licensed in Texas
[F]Of Counsel

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LAS VEGAS, NEVADA 89119

TEL (702) 380-3100
FAX (702) 385-3101

February 17, 2014

Dear Nevada Pharmacy Board:

Since the inception of *Maryanne Phillips, M.D. v. The Medical Board of California*, Case No.: 09-2004-16-1866. I was Lead Insurance Defense Counsel for Nevada Docs Medical Risk Retention Group, Inc. for five (5) years and Defended doctors. While I am not licensed in California, I did refer Mrs. Phillips to a California attorney. His name was David Rosenberg. Also, I involved an expert pain manager, Dr. Jim Marx, who reviewed the entire file. His expert report to the board indicated as my opinion will clearly reveal as well, her care never fell below the standard of care. Never once did she ever misstate or misrepresent a fact throughout the entire course of that case. The only reason this case did not get to go to a hearing is, she had a prior attorney who frankly, provided wholly and inadequate services. He did not respond to the request of the board, did not obtain the handwriting expert that our office did on the forgeries, and did not retain a pain management expert as my office did. This resulted in Dr. Phillips being in a very unique procedural position where she frankly was forced to acquiest to a settlement. It should strongly be noted, had my firm been involved in the inception of her case or Mr. Rosenberg's firm been involved in the inception of this case, it would have more likely than not been dismissed.

It should be noted, by the Pharmacy board that she was in a procedural quagmire with respect to the medical board based on her first attorney. My firm as well as Ms. Ames and Mr. Chase proceeded with our investigation.

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Healthcare Integrity and Protection
Data Bank
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http://www.npdb-hipdb.hrsa.gov

ADVERSE ACTION REPORT

STATE LICENSURE ACTION

Report Number 5500000059966540

This report is maintained under the provisions of:

[X] Title IV (NPDB) [X] Section 1128E (HIPDB)

The information contained in this report is maintained by the National Practitioner Data Bank for restricted use under the provisions of Title IV of Public Law 99-660, as amended; and 45 CFR Part 60. This report also is maintained by the Healthcare Integrity and Protection Data Bank for restricted use under the provisions of Section 1128E of the Social Security Act and 45 CFR Part 61. All information is confidential and may be used only for the purpose for which it was disclosed. Disclosure or use of confidential information for other purposes is a violation of Federal law. For additional information or clarification, contact the reporting entity identified in Section A.

A. REPORTING ENTITY

Entity Name: NM MEDICAL BOARD
Address: 2055 S PACHECO #400
City, State, ZIP: SANTA FE, NM 87505
Entity Internal Report Reference (e.g., claim number):
Name or Office: LYNN HART
Title or Department: EXECUTIVE DIRECTOR
Telephone: (505)476-7221
Type of Report: INITIAL REPORT

B. SUBJECT IDENTIFICATION INFORMATION (INDIVIDUAL)

Subject Name: PHILLIPS, MARYANNE DEFOREST
Other Name(s) Used:
Gender: FEMALE
Date of Birth:
Organization Name:
Work Address: 10620 SOUTHERN HIGHLANDS PKWY
SUITE 110-250
City, State, ZIP: LAS VEGAS, NV 89141
Country:
Organization Type:
Other, as Specified:
Home Address: BROOKMERE DRIVE
City, State, ZIP: LAS VEGAS, NV 89130
Country:
Deceased: NO
Date of Death:
Federal Employer Identification Numbers (FEIN):
Social Security Numbers (SSN): ***-**-
Individual Taxpayer Identification Numbers (ITIN):
National Provider Identifiers (NPI):

Data Banks using the on-line Report Response Service, available at http://www.npdb-hipdb.hrsa.gov. Future correspondence from the Data Banks will be mailed to you at the address specified. Please be advised that this does not change your address as reflected in the report. Only the entity that originally submitted the report can modify or correct information provided in the report.

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>> **You may dispute the report** using the on-line Report Response Service, available at http://www.npdb-hipdb.hrsa.gov. You may NOT dispute the reported action itself or the appropriateness of any finding or judgment.

>> **You may submit both** a statement and dispute the report.

>> **You must certify** that you are the subject of the report in the Certification section of the Subject Statement and Dispute screen if you submit a statement, dispute the report or both.

Do not send this form directly to the Secretary of the U.S. Department of Health and Human Services. To avoid lengthy processing delays, send the form to: NPDB-HIPDB, P.O. Box 10832, Chantilly, VA 20153-0832.

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If a reporting entity subsequently corrects or changes a report that contains a Subject Statement, the original statement will be maintained in the modified report until the Subject elects to remove it or replace it with a new statement.

Additional Information.

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Description of Subject's Act(s) or Omission(s) or Other Reasons for Action(s) Taken and Description of Action(s) Taken by Reporting Entity: investigation of Physician based on licensure action taken against her in the state of California. Physician is currently able to practice medicine in California under certain terms and conditions. The NM Medical Board is persuaded that Physician can safely perform the duties of a physician in NM if under similar terms and conditions. Therefore, Physician is on probation in NM until she has successfully completed the terms and conditions set forth in the California Medical Board's Order and her license has been fully restored in that state. Physician shall remain compliant at all times with the terms and conditions set forth in the CA Medical Board Order. Physician shall not supervise Physician Assistants in NM for as long as she is on probation in this state. Physician shall provide quarterly affidavits to the NM Medical Board attesting to her compliance with the terms and conditions set forth in the Board's Order. Physician may request to be released from probation in NM only after her license has been fully restored in California.

Is the Adverse Action Specified in This Report Based on the Subject's Professional Competence or Conduct, Which Adversely Affected, or Could Have Adversely Affected, the Health or Welfare of the Patient?: YES

☐ Subject identified in Section B has appealed the reported adverse action.

Date of Appeal:

D. SUBJECT STATEMENT

If the subject identified in Section B of this report has submitted a statement, it appears in this section.

Date Submitted: 01/28/2010

THIS IS TO CORRECT FACTUAL INACCURACIES IN THE REPORTING OF THIS ACTION. REPORTING ENTITY NEW MEXICO STATE MEDICAL BOARD. ADVERSE ACTION; PROBATION OF LICENSE, DATE OF ACTION APRIL 6, 2009 BY CA MEDICAL BOARD. LENGTH OF ACTION: 3 YEARS TO BE DROPPED AT 2 YRS IF SATISFACTORY COMPLIANCE. NO ADVERSE OUTCOMES IN THE STATE OF NEW MEXICO. BASIS FOR ACTION: INACCURACIES OTHER NOT CLASSIFIED, SPECIFIED. DESCRIPTION OF SUBJECT'S ACT(S) OR OTHER REASONS FOR ACTION: INVESTIGATION OF PHYSICIAN BASED ON OVER PRESCRIBING AS REPORTED BY A PHARMACY. IT WAS FOUND TO ACTUALLY BE FRAUDULENT PRESCRIPTIONS FILLED FOR OVER TWICE THE AMOUNT ACTUALLY WRITTEN BY THE SUBJECT ON HER PRESCRIPTIONS. EXAMPLE: ON PRESCRIPTIONS IN HER HANDWRITING (WHICH WERE LATER VERIFIED BY A HAND WRITING EXPERT) IT WAS WRITTEN (MAX 10 PER DAY) AND PHARMACY FILLED 20 TO 25 DOSES PER DAY. THIS STARTED IN JANUARY 2002 AND ENDED IN SEPTEMBER 2003 ON TWO PATIENTS THAT SHE SAW FOR HER EMPLOYER. (THEY WERE HIS PREVIOUS PATIENTS)

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DURING THIS TIME THE PHARMACY NEGLECTED TO CONTACT HER, ONLY CONTACTED HER EMPLOYER AND FILLED THE PRESCRIPTIONS AS WELL AS THE FRAUDULENT PRESCRIPTIONS. THE INSURANCE COMPANY AETNA FOUND THAT SHE HAD NO KNOWLEDGE OF THIS AND SUBSEQUENTLY TURNED IN AN ACCUSATION TO THE CA MEDICAL BOARD FOR OVER PRESCRIBING. SINCE INSURANCE COMPANY PREVIOUSLY COVERING HER REFUSED TO PAY FOR LEGAL FEES AND UNABLE TO TAKE TO A HEARING. SUBSEQUENTLY THE STATE OF CALIFORNIA LICENSE ON TEMPORARY PROBATION. PENDING ASSESSMENT, WHICH SHE PASSED. UNDER PACE PROGRAM, CURRENTLY NO RESTRICTIONS ON PAIN MGMT IN CA OR ANY OTHER STATE. PHYSICIAN MAY REQUEST TO BE RELEASED FROM NM PROBATION AT THIS TIME SINCE IT STATES THAT HER LICENSE HAS BEEN FULLY RESTORED IN CA. ADVERSE ACTION SPECIFIED; THAT PATIENT WAS ADVERSLEY AFFECTED- ANSWER IN NO. SINCE SHE HAD NO KNOWLEDGE OF ADDITIONAL OR FRAUDULENT PRESCRIPTIONS. SPECIALTY IS NOT ANESTHESIOLOGY, IT SHOULD BE PAIN MANAGEMENT.

E. REPORT STATUS

Unless one or more boxes below are checked, the subject of this report identified in Section B has not contested this report.

- ☐ If box is checked, this report has been disputed by the subject identified in Section B.
- ☐ If box is checked, at the request of the subject identified in Section B, this report is being reviewed by the Secretary of the U.S. Department of Health and Human Services to determine its accuracy and/or whether it complies with reporting requirements. No decision has been reached.
- ☐ If box is checked, at the request of the subject identified in Section B, this report was reviewed by the Secretary of the U.S. Department of Health and Human Services. The Secretary's decision is shown below:

Date of Original Submission: 12/28/2009

Date of Most Recent Change: 12/28/2009

END OF REPORT

CONFIDENTIAL DOCUMENT – FOR AUTHORIZED USE ONLY

LAW OFFICES OF

ASKREN LAW FIRM
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Tel.: (619) 300-3061 E-Mail: g.askren@askaskren.com Fax. (619) 437-1881
(619) 435-9303

October 10, 2007

Maryanne Phillips, M.D.
10620 Southern Highlands Parkway
Suite 110-250
Las Vegas, Nevada 89141-4371

Re: In the Matter of the Accusation Against Maryanne Phillips, M.D.

Dear Dr. Phillips:

You recently indicated you do not have a complete copy of the records we received, through Mr. Kalifon, from the Attorney General. I have examined my files and verified the existence of each numbered page. I found that some of the pages apparently were not copied for us from the beginning. I am sending a separate letter to the Attorney General with the specific pages we are missing. I believe them to be missing because all the pages were stamped, in order, from AGO 0001 through AGO 1155.

However, substantially all the pages were apparently copied and I am furnishing the copy to you now.

There are two additional packages of records, unnumbered, received from the office of Roland Reinhart, M.D. Insofar as his office records are identical to the office records you kept while working in his office, these would be duplicates. However, in order to be scrupulously obedient to your request for all the records, I am having them commercially copied and plan to get them to you next week.

Please remember our fee deposit agreement so I can further proceed with your defense.

Sincerely,

Encl.

M. Gayle Askren
ASKREN LAW FIRM

JEFFER, MANGELS, BUTLER & MARMARO LLP
DAVID KALIFON (Bar No. 138110)
1900 Avenue of the Stars, Seventh Floor
Los Angeles, California 90067-4308
Direct Telephone: (310) 785-5311
Direct Fax: (310) 712-3311
E-mail: DKalifon@jmbm.com

Attorneys for Respondent MaryAnne Phillips, M.D.

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	OAH No. _____
MaryAnne Phillips, M.D. Physician and Surgeon Certificate No. A63753	Board No. 09-2004-1612866
Respondent	DECLARATION OF CUSTODIAN OF RECORDS

I, Aracelli H. Rentería, hereby certify and declare as follows:
[PRINTED NAME]

1. I am over the age of 18 years and I am not a party to this action.

2. My business address is 39-700 Bob Hope Drive, #202, Rancho Mirage, CA 92270.

3. My employment, business or occupation is Custodian of Records.

4. I am the duly authorized custodian of records or other qualified witness for Roland D. Reinhart, M.D., APC ("Reinhart APC") with regard to the business records requested by Respondent MaryAnne Phillips, M.D., and I am authorized to certify them as set forth below.

5. I, along with other authorized personnel of Reinhart APC, performed, or caused to be performed, a reasonably diligent search for and made copies of records that are responsive to Respondent's Subpoena Duces Tecum requesting the production of records or things with respect to Lisa Jones.

PRINTED ON RECYCLED PAPER

6. I placed such copies in a sealed envelope and then forwarded them to Respondent's attorneys, JEFFER, MANGELS, BUTLER & MARMARO LLP, David Kalifon, Esq.

7. I am informed and believe, and on that basis certify, that the records I sent to Respondent's attorneys are true, correct and complete copies of records prepared, received and/or maintained in the regular course and scope of Reinhart APC's business and, with respect to records prepared by Reinhart APC, that said records were prepared by authorized personnel in the ordinary course of business at or near the time of the acts, conditions or events which they purport to represent.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on NOV 8, 2006, at Rancho Mirage, California.

A. H. Renteria
[SIGNATURE]

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Roland D.
Reinhart, M.D., APC
Pain Management Consultant

39-700 Bob e Drive, Suite 202
Rancho Mirage, CA 92270
Phone 760-341-2360
Fax 760-346-5940
advanced-pain-management.com

Completion of this form is optional. Thank you for your referral to our practice.

Referring Physician Dr. Brian Curtis

Patient's Name Phillip E. Ramsey Date of Birth

Address N. Indian Canyon #6 Palm Springs 92262

Telephone Daytime Other

Primary Insurance United Healthcare - Traveler's

Secondary Insurance

Test Results: MRI CT Bone X-Rays

(If available, send copies of reports with consult request. Send copies of reports from other institutions.)

Where Date

FAXED
AUG 01 2001
BY:

Coumadin/Plavix Yes No

Physicians Comments

Please schedule patient for surgical consultation TSTP.

Thank you

Completed by Aimee Date 8/1/01

Date and Time of Appointment

AGO - 0742

James G. Marx, M.D., Ltd.
608 South Jones
Las Vegas, NV 89107
(702) 878-4568 • FAX (702) 878-5214
Board Certified-Anesthesiology and Pain Medicine
Certified by the American Society of Addiction Medicine
MRO-MRO Certifying Council

I, James G. Marx, M.D. am a licensed physician in California, License Number C37925. I am also currently licensed in the states of Nevada and Nebraska. I have held a M.D. license since 1973. I am board certified by the American Board Of Anesthesiology, The American Board of Pain Medicine, and am certified in Addiction Medicine by the American Society of Addiction Medicine. I have actually practiced 100% of the last 15 years in pain medicine doing both interventional and noninterventional pain management. A substantial part of my practice is the pain management of patients who have either had a chemical dependency problem in the past or who are opioid tolerant. I also hold a waiver from the DEA for the outpatient treatment of opioid dependent patients with Suboxone. I have been a member of the State of Nevada Controlled Substance Abuse Task Force since 1997. I am a Stakeholder in the Opiate Deaths in Nevada Panel and am a participant in the National Alliance for Model State Drug Laws. In addition I have served as a reviewer for the Nevada State Board of Medical Examiners in cases involving pain medicine.

I have examined the records supplied by Dr. Marianne Phillips relating to the care of two patients, namely Lisa Jones, a.k.a. Lisa Ramsey, and also Philip Ramsey. From the records submitted, it appears that a review by the Medical Board of California was instituted following a referral from the Aetna Insurance company by a Dr. McCleave to the Fraud Division of the California Department of Insurance. Among the records submitted are copies of Triplicates, clinical notes, pharmacy dispensing logs, and Medical Board investigation notes including the review letter provided by Dr. James I. Rho, M.D. of January 29, 2006. Following my review of the records, I personally interviewed Dr. Phillips regarding any questions that I might had following my review.

I will focus my attention initially on the review of Dr. Rho as the Board seems to be giving a significant amount of their attention to this report. Unfortunately in supplying Dr. Rho with records some of the back sides of many pages were inadvertently omitted, so he was not able to review those notes which correspond to office visit where prescriptions were written. Consequently, the quality of Dr. Rho's review was adversely affected. One of the reviewer's contentions was that there was not clinical notes to support the prescription of controlled substances written. That was a perfectly legitimate conclusion to draw as the doctor was not supplied with those records. It is also apparent to even a casual observer that a majority of the prescriptions written were not in Dr. Phillips handwriting. In as much as the major contention of this complaint is overprescribing, that allegation can be supported if in fact the prescriptions were written by Dr. Phillips. But, I do not believe that to be the case and I think expert testimony will be offered to support that contention although I do not believe it will take an expert to see there is a substantial difference in the handwriting of the various prescriptions.

In the case of Lisa Ramsey, Dr. Phillips did perform an inital evaluation including a history and physical examination and did request consultation in the form of radiologic examinations and imaging studies which provided objective evidence of cervical discogenic pathology congruent with the patient's complaints. Thus, Dr. Phillips has performed a good-faith examination documenting the requirement for use of analgesic medication. Furthermore, adjunctive treatment was provided to alleviate this patient's pain. This patient's pain was initially treated with Schedule 3 opiates without adequate response. Dr. Phillips at that time resorted to Schedule 2 medication. In that time frame, the manufacturer of Actiq was aggressively promoting the use of that medication, and since that time has considerably changed their marketing focus. That the patient was receiving an excessive number of Actiq was actually only known by two parties, the dispensing pharmacy chain and the insurer paying for these prescriptions. Neither of these entities made any effort whatsoever to contact the doctor regarding the number of prescriptions and dosage units that the patient was actually receiving. The only reason this complaint was brought, was when the insurer after a period of many months realized how much this patient

was costing them for prescriptions, did they finally realize that there was something amiss. Furthermore, these prescriptions were all filled within the same pharmacy chain -- why did they make no effort to contact Dr. Phillips. They are well aware of opiate prescribing agreements and know that patients are to receive their medication and only one pharmacy. In fact, when Dr. Phillips discovered after moving to Las Vegas that her prescriptions were being altered she immediately discharged the patient. Dr. Phillips received no material gain from her prescribing while in California as she was an salaried employee of Dr. Reinhart.

That Actiq is an uneconomical means of providing baseline analgesia cannot be denied and indeed is the reason for Aetna's fraud referral. Even Dr. Rho in his report states there are exceptions to the use of Actiq for breakthrough pain. That is a clinical decision made by the treating physician which is nearly impossible to review in the retrospective. To me it is unconscionable for a pharmacy chain or a insurer to not give notice to the physician when this information becomes available. Had Dr. Phillips been aware of this, she would no doubt have discharged the patient and the patient's spouse without delay.

Absent this notification, Dr. Phillips would have had to have been clairvoyant to know that this number of dosage units was actually being dispensed. In my opinion, this complaint is not about inadequate documentation but rather excessive prescribing. Although it is often written, that if it isn't written down, that it didn't happen, in the reality of clinical practice, unless you have a court reporter in the exam or treatment room documenting the entire patient interaction, most of what happened didn't happen.

In the case of Philip Ramsey, this patient was initially seen by Dr. Reinhart who in good faith and after reasonable consultation prescribed both schedule 2 and schedule 3 opiates in high dosages. This patient also had a variety of interventional techniques without significant relief of pain. That he was referred to a surgeon and refused surgery should not be an exclusion to this patient receiving long-term opiate maintenance. Dr. Reinhart did initiate Actiq therapy initially with the 200 mcg dose and then escalating to the 1600 mcg dosage unit, eventually. Dr. Rho goes on to state that this patient should have been tried on various combinations of other opiates. Although I don't disagree with this statement, it would be easy to find a number of experts who claim that this approach should not be taken and that opioids should not be mixed for synergistic effect. Thus, there is a substantial diversity of opinion of how pain should be treated and with what medication. As to Dr. Reinhart's observation that the number of dosage units written deviated from the directions, this discrepancy should have been rectified by the dispensing pharmacist as it was clearly Dr. Phillips intention that the patient not take more than eight lozenges a day on the average, more medication might be necessary on certain days as there was no secondary breakthrough medication. Again, as to the quantity of prescriptions dispensed, is again clearly evident that a majority of the prescriptions filled were not in Dr. Phillips handwriting. In addition from the pharmacy dispensing logs, is clear that there was a consistent pattern of prescriptions being filled at different pharmacies again in conflict with the patient's signed opiate prescribing agreement. That the dispensing pharmacy chain did not notify Dr. Phillips of this behavior, again deprived her of the ability to take the appropriate steps, namely discharging the patient. Also, where was the State of California in monitoring Triplicates that were submitted.

In addition, I have been supplied arrest and conviction records of both the above captioned patients with numerous drug related offenses. None of this information was or is routinely available to the prescribing physician, Dr. Phillips, or to any physician for that matter. Obviously a patient with the intent to defraud a physician is not going to reveal this information. We as physicians, and Dr. Phillips as an individual has to rely upon the patient's honesty primarily. We depend upon controls and checks and balances within the delivery system to alert us to patient's deviant behavior. When these measures fail, the physician cannot be the scapegoat for the failure.

In 2002, the level of awareness regarding prescribed drug diversion was not at the level it is today. In addition, today, better prescription monitoring program and urine compliance testing programs have provided better tools to prevent diversion. Regardless of the state of awareness today, Dr. Phillips cannot be disciplined for failing to act upon information which either inadvertently or intentionally was concealed from her. One troubling observation or Dr. Rho seems to be his equating drug tolerance with addiction. As Dr. Rho states, addiction is a

psychological condition but also more accurately is a psycho-sociological condition with multiple determinants, including preoccupation with obtaining drugs, psychological and physiological dependence, as well as behavior with adverse consequences with adverse consequences a key element.

Drug seeking behavior per se does not equate to addiction in as much as anyone who is in pain, seeks relief of their pain. If we were to follow this erroneous logic to its conclusion, we could safely assume that patients with end-stage COPD are oxygen addicts and that diabetics with insulin-induced hypoglycemia are glucagon addicts, which clearly is not true.

The prosecution of physicians who in good faith treat patients with pain who are in fact deceiving them only has a chilling effect upon the physician population. California has regulation in effect for almost 20 years dictating that pain as a disease should be addressed appropriately and without fear of retribution.

In the instant case, Dr. Phillips should not be penalized for her acts or lack of action as her prescribing would have been immediately stopped had she known of the deviant behavior of the patient's above. That she continued to prescribe for these patients was due solely to her lack of knowledge of their deception and illegal acts which were almost immediately known to multiple other responsible parties, one of whom, ironically initiated this action.

Jurat…

Roland D.
Reinhart, M.D., APC
Pain Management Consultant

November 8, 2006

Jeffer Mangels Bulter & Marmaro, LLP
1900 Avenue of the Stars, 7th Floor
Los Angeles, CA 90067-4308

Dear David Kalifon, MD JD,

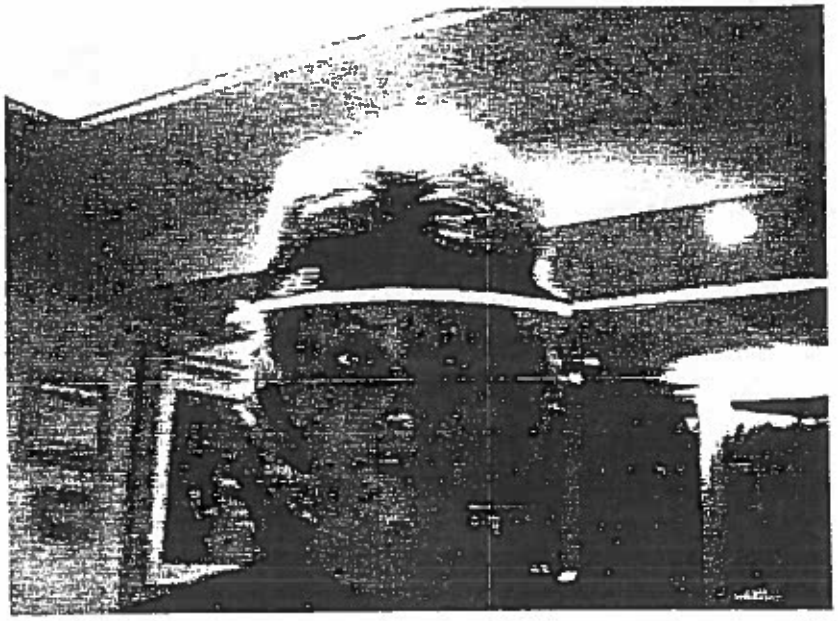
You have requested medical records for Lisa Jones. We require a $ 45.00 processing fee for enclosed records. If you could please make check payable to: Roland D. Reinhart, MD. Our tax ID number is 33-0808867. Thank you for your consideration in this matter.

Sincerely,

A. H. Renteria

Aracelli H. Renteria
Custodian of Records

39-700 Bob Hope Drive, Suite 202 Rancho Mirage, CA 92270 760-341-2360 Fax760-346-5940
advanced-pain-mangement.com



JONES, LISA.JPG
3/13/02

Roland D.
Reinhart, M.D., APC
Pain Management Consultant

39-700 Bob e Drive, Suite 202
Rancho Mirage, CA 92270
Phone 760-341-2360
Fax 760-346-5940
advanced-pain-management.com

Completion of this form is optional. Thank you for your referral to our practice.

Referring Physician Dr. Brian Curtis

Patient's Name Phillip E. Ramsey Date of Birth

Address 2 N. Indian Canyon #6 Palm Springs 92262

Telephone Daytime 2 Other

Primary Insurance United Healthcare - Traveler's

Secondary Insurance

Test Results: MRI CT Bone X-Rays

(If available, send copies of reports with consult request. Send copies of reports from other institutions.)

Where Date

Coumadin/Plavix Yes No

FAXED
AUG 01 2001
BY:

Physicians Comments

Please schedule patient for surgical consultation ASAP.

Thank you

Completed by Aimee Date 8/1/01

Date and Time of Appointment

AGO - 0742

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SHEILA LOWE & ASSOCIATES

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The Write Choice

April 26, 2008

To Whom it May Concern

Re: Maryanne Phillips, MD
Handwriting Examination

I was requested to examine a series of prescription forms listed below to determine whether the handwriting on the forms matched handwriting exemplars of Dr. Phillips. Two prescription forms appear on each page. On some pages only one form is questioned. Only the questioned form is referenced here.

QUESTIONED DOCUMENTS

8/11/03	AGO-1010
5/20/02	AGO-1010
5/6/02	AGO-1011
4/29/02	AGO-1012
4/1/02	AGO-1012
3/19/02	AGO-1013
2/20/02	AGO-1013
1/24/02	AGO-1014
11/25/02	AGO-1015
12/20/02	AGO-1015
10/31/02	AGO-1016
10/31/02	AGO-1016
7/5/03	AGO-1017
6/2/03	AGO-1018
7/22/02	AGO-1020
7/22/02	AGO-1021
6/28/02	AGO-1021
6/10/02	AGO-1022
6/28/02	AGO-1023
1/31/03	AGO-1025
2/4/03	AGO-1025
1/20/03	AGO-1026
1/20/03	AGO-1027
2/14/03	AGO-1027
3/13/03	AGO-1028
5/7/03	AGO-1030
5/17/03	AGO-1030
10/10/03	AGO-1008
9/5/03	AGO-1008
8/11/03	AGO-1009
8/11/03	AGO-1009
10/01/02	AGO-1004
10/01/02	AGO-1005
10/01/02	AGO-1005
8/5/02	AGO-1007
9/12/02	AGO-1007

DECLARATION

I, Sheila Lowe, declare under penalty of perjury under the laws of the State of California, that I am a California court-qualified examiner of questioned documents. The above is my true and correct professional opinion and the document attached hereto accurately sets forth my experience and credentials.

NOTE: I reserve the right to alter or change my opinion if presented with additional evidence. Thank you for the opportunity to be of service.

Respectfully submitted,

Sheila R. Lowe
Handwriting Examiner

METHOD OF EXAMINATION

The documents listed above were scanned into a computer and viewed in a greatly enlarged state. The handwriting was then examined in terms of the three major aspects of handwriting commonly referenced in the field of handwriting analysis: spatial arrangement, writing form and writing movement. Individual letter forms were also examined and compared. Spatial arrangement refers to the space between letters and words and the arrangement of the composition relative to an actual or hypothetical baseline.

Writing form refers to the actual style (in typesetting what would be called the font) of the lettering (cursive, school model, printed), the simplicity or elaborateness of the writing, the size of the lettering, and the existence of flourishes in particular letters or groups of letters. Writing movement relates to the velocity of the writing as exhibited by the degree of pressure (i.e heavy or light lines), the pressure patterns (distribution of light/dark strokes), zonal proportions, and the slant of the letters and words.

FINDINGS AND CONCLUSIONS

I examined the known handwriting of Dr. Phillips on prescription forms and other documents and compared it with the handwriting found on the questioned documents using the methods described above.

Although the poor quality of the photocopies made it possible for me to carry out only a preliminary examination, there was enough evidence on some of the prescription forms, notably #1028, #1030, to conclude that the handwriting did not match that of Dr. Phillips.

I have requested the originals or better copies if further examination is required.

III. OPINION

Forgery of original signatures traditionally falls into three categories: simulation, freehand and tracing.[1] Freehand forgery makes no effort to copy the victim's actual signature, but instead the author signs the victim's name in the author's own handwriting. Simulation denotes an effort to mimic the authentic signature or writing of the victim. The freehand type appears to be present in this case.

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[1] With the advent of graphics software and high resolution color printers, forgery now also includes electronic reproduction.

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Curriculum Vitae
Sheila Lowe

GENERAL SUMMARY

With a background of more than thirty years as a specialist in the field of handwriting, Sheila Lowe provides a variety of services in handwriting examination. Her experience includes work with corporate clients, mental health professionals, police departments (U.S. and Australia), offices of the Public Defender, attorneys, and private investigators. She has been a court-appointed handwriting expert and her testimony has been accepted in the California Superior Court system since 1985. In 2005 she became approved by the State of California as a provider of continuing education credits for marriage and family therapists, with her handwriting analysis courses.

Ms. Lowe's range of experience in handwriting analysis encompasses many areas, including identifications of disputed signatures on wills, trust deeds, checks, credit card slips, invoices, worker's compensation forms, traffic citations, contracts. Also, handwriting identification on holographic wills, doctor's patient records, anonymous letters, suicide notes, celebrity impersonators; identification of initials. When interviewed along with four other handwriting experts on CNN regarding questioned handwriting in the O.J. Simpson case, Ms. Lowe's opinion opposed that of all the other examiners. Her opinion proved to be the correct one.

In another aspect of her business, she prepares behavioral profiles based on handwriting for corporate clients in hiring, management and promotion; for psychologists and private investigators, and individuals. Active in promoting professionalism in her field, she publishes *The Vanguard*, a periodical for handwriting professionals and serious students. Ms. Lowe has authored numerous monographs and trained those interested in pursuing a career in graphology. In 1995 she sponsored the first national Vanguard Conference, specifically designed to elevate the standards of handwriting analysts. She is the author *Sheila Lowe's Handwriting Analyzer* software, which is currently being used around the world by a variety of clients, including law enforcement, psychologists and human resource professionals, as well as several books.

Originally founded in 1984 as The Graphology Center, Ms. Lowe's company, now Sheila Lowe & Associates, *The Write Choice!* serves a broad spectrum of clients in fields extending from staffing to real estate, financial services, psychologists, private investigations, medical, construction, hospitality, automotive, and others. Clients have included Target Stores, Nabisco, Zales Jewelers, On the Beach Sportswear, Republic Insurance, West Los Angeles School District, Rowland School District, Hart School District, Nature's Best Foods, Unsolved Mysteries, National Association of Letter Carriers.

PROFESSIONAL MEMBERSHIPS & AFFILIATIONS

ASTM International. Forum to establish standards for testing and measurements. Voting member of Forensic Sciences subgroup Document Examination (E30.02).

National Association of Document Examiners. Member (also NADE Forum Online member). Membership is by recommendation. Member, Professional Development Committee.

State of California Board of Behavioral Sciences. Approved Continuing Education Provider, Approval No. PCE 3603.

American Handwriting Analysis Foundation (Ret.)
Certified 1982
Member, board of directors, 1984-1994
Editor of *AHAF Journal,* 1984-1992
National Chapter Coordinator, 1992-1994
Judge and consultant for the Certification Committee, 1984-1994
Founding member of the Los Angeles Chapter of AHAF (1982) and secretary 1982-1985
Membership chairman 1985-1993
Chapter president, 1985 and 1994
National conference program chairperson, 1986, 1993

Ventura Chamber of Commerce, member 2004-2006; Ambassador, 2005-2006

Ventura County Professional Women's Network, Membership Committee; Board of Directors as *Focal Points* Editor, 2005-current.

Qualified as a Handwriting Expert; Court appointed Handwriting Expert, California Superior Courts since 1985.

Society of Handwriting Analysts of Washington, DC. Certified 1985.

College of the Canyons, Instructor (extension program for adult ed.) – Introduction to Handwriting Psychology 1997, 1998, 2003.

PROFESSIONAL EDUCATION AND TRAINING

Handwriting Examination & Roman-Staempfli Courses, 1977
Handwriting Analysis Workshop Unlimited (Charlie Cole, world-renowned handwriting examiner).

Handwriting Examination Workshop, 1988, and one-on-one mentorship/peer review
Judith Housley, Document Examiner of Record for the State of New Mexico.

Handwriting Examination Course, 1992
Paul Weast, nationally recognized handwriting examiner.

West Los Angeles College, 1990
Abnormal Psychology

Scientific Content Analysis course, Seattle, 1995
Through the Seattle Police Department, with Mr. Avinoam Sapir (Laboratory for Scientific Interrogation), formerly of the Israeli Police Department, and a polygraph specialist.

Bachelor of Science, Psychology, California Coast University, 2005

SignaScan Laboratory, 2006 - Special training in identification of synchronous writing and ink striation analysis.

NADE Conference May 16-20, 2007 – Tucson, Arizona – 25 ½ hours

- Introduction to Print Identification, Joe Barabe
- Art and Artefacts Forgery Identification, Graham Ospreay
- Decoding Identifying Printer Information, Seth Schoen
- Forgery Science, An Interactive Workshop, Dr. Bryan Found
- Assessing Dynamic Features From Handwriting, Dr. Hans-Leo Teulings & H. Harralson, CDE
- Conducting An Observed Document Examination, Larry Liebscher, CDE
- Extreme Grips, Jacqueline Joseph, CDE
- An Introduction to Solid Ink Printers, Cina Wong, CDE
- Working with the Media, Ruth Holmes, CDE

AHAF/AAHA Conference July 26-29, 2007 – Santa Clara, California – 20 hours

- Handwriting Analysis Research Library, video presentation
- Early Memories and Handwriting, Linda Larson
- Physiology and Handwriting, Marcel Matley
- Personality Styles Seen with NLP and Handwriting Analysis, Danny Burton
- The Persona and Handwriting, Debby Peddy
- From Mind to Hand–Artists and their Handwriting, Susanne Shapiro
- Print v. Cursive Handwriting in School, Graziella Petinatti
- Comparative Analysis (presenter)
- Alpha Beta Workshop, Heidi Harralson, Tricia Clapp
- The New American Alphabet Model, Iris Hatfield
- An Introduction to the Moretti Method, Claudio Garibaldi
- Bringing Handwriting Analysis to the Mental Health Professional (presenter)
- A Case of Borderline Personality Disorder Seen in Handwriting, Jeanette Farmer

A SMALL SELECTION OF LECTURES PRESENTED SINCE 1995:

IGAS South Carolina, Marriage & Family Therapists CEU, 2007 for CEU
Ventura County Bar Association; 2006 for MCLE
Kern County Bar Association; 2006 for MCLE
Home Savings assistant bank managers – Preventing Signature Fraud; 2006
American Handwriting Analysis Foundation National Conference; 2005
Kern County Paralegal Association; 2003, 2004 for MCLE
American Handwriting Analysis Foundation National Conference; 2003
Handwriting Examination Workshop; 2003
Graphodigest 2nd Virtual Conference for Graphology; 2001
National Association of Document Examiners, National Conference, 2000, Albuquerque NM
National Association of Document Examiners, National Conference, 1994, Boston MA;
American Association of Handwriting Analysts Regional Seminar, Detroit MI, 1999
American Handwriting Analysis Foundation Regional Seminar, Tucson AZ, 1999
International Graphological Colloquium, 1998 Montreal Canada
American College of Forensic Examiners Conference, 1998, Naples FL
Vanguard Regional Seminar, 1998, Dallas TX
International Graphological Society, 1998, London England
American College of Forensic Examiners Conference, 1996, San Diego CA

Pacific Union Club, 1996, San Francisco CA
Vanguard National Conference, Tucson 1996, Asilomar 1997, Oxnard 1998
Institute of Graphological Sciences, National Conference, 1995, Dallas TX
National Society for Graphology, 1995, New York NY
Numerous civic and business organizations

PUBLICATIONS

Spirit, Southwest Airlines in-flight magazine (January, 2008)
San Fernando Valley Bar Association Magazine part II (July/Aug 2007)
San Fernando Valley Bar Association Magazine part I (Sept/Oct, 2006)
Santa Barbara County Bar Association Magazine (2006)
San Luis Obispo County Bar Association Magazine: *Bar Bulletin*: Personality Profiling and Handwriting Analysis for the Attorney (May, 2006)
PI magazine: Handwriting Analysis for the Private Investigator (April, 2006)
SOBRAG, national journal of the Graphological Society of Brazil (2006)
Clark County NV Bar Association Magazine: *Communique*: Handwriting Analysis in Employment Screening (scheduled for publication July, 2006)
Teen magazine article (scheduled for publication July, 2006)
San Luis Obispo County Bar Association Magazine: *Bar Bulletin*: Forgery and the Handwriting Expert (January, 2006)
San Bernardino County Bar Association Magazine: *Bar Bulletin:* Forgery and the Handwriting Expert (October, 2005)
San Bernardino County Bar Association Magazine: *Bar Bulletin:* Personality Profiling and Handwriting Analysis for the Attorney (September, 2005)
Ventura County Bar Association Magazine: *Citations*: Forgery and the Handwriting Expert (April, 2005)
Orange County Bar Association Magazine: *Orange County Lawyer*: Personality Profiling and Handwriting Analysis for the Attorney (January, 2005)
Orange County Bar Association Magazine: *Orange County Lawyer*: Forgery and the Handwriting Expert – What Attorneys Need to Know (September, 2004)
Handwriting of the Famous & Infamous (Metro Books, 2001)
NADE Journal (National Association of Document Examiners) article, February-March, 2000
Time magazine article (analysis of G8 Summit Leaders, August, 2000)
The Complete Idiot's Guide to Handwriting Analysis (Macmillan, 1999, second ed. Penguin, 2007)
Sheila Lowe's Handwriting Analyzer software (with RI Software)
NADE Journal (National Association of Document Examiners), 2000
Monographs on the subject of handwriting and behavior, which include:

Character Structure & Handwriting; Coping & Defense Mechanisms in Handwriting; Jung's Typologies & Handwriting; Serial Killers, The Face of Evil; Answers to Legal Questions for Handwriting Analysts (with David Robinson, Esq.); *Looking at the Big Picture; Graphology in Business; Marketing Tools for the Handwriting Professional; Introduction to Gestalt Graphology; Professional Graphology, the Next Step; Lectures that Sell; Compendium of Descriptive Paragraphs; Beneath it All; Jung's Typologies Applied to Handwriting*

Editor and Publisher of *The Vanguard,* a periodical for handwriting professionals since 1992

Articles for newsletters and handwriting analysis journals, which include: *AAHA Dialogue, AHAF Journal, Write-Up, The Graphologist* (British Institute of Graphology) as well as journal of handwriting analysis in Switzerland.

RESEARCH:

Participated in a published study on Multiple Personality Disorder, Sperry Lab, Calif. Polytechnic Institute
Presented original research on left-handedness at 1984 AHAF Annual Conference
Presented original research on personal pronoun I at 1990 AHAF Annual Conference
Currently researching criminal behavior and handwriting with law enforcement and mental health professionals

AWARDS & HONOR SOCIETY MEMBERSHIPS:

International Honor Society, Delta Episoln Tau – Gamma of California.
Recipient, AHAF President's Award for *Outstanding Achievement and Accomplishment in the Field of Handwriting,* Tucson, 1991.

EQUIPMENT USED:

Stereo microscope; transmitted light apparatus, Hewlett Packard 7410 scanner and Canon iDE90 scanner, measuring calipers and other measurement tools. Sony Mavica digital camera.

SOME MEDIA APPEARANCES

Television & Radio Interviews

Unsolved Mysteries NBC Network Television (1991)
The Elvis Conspiracy KTLA Television Special (1992)
Jay Thomas Show KPWR Power 106 radio (1992)
KTLA Morning Show (2/94)
Case Closed, USA Network (2/94)
KABC TalkRadio with Tom Hall (2/94, 7/94, 2/95)
Hard Copy, NBC Network Television (O.J. Simpson case, notebook) (7/94, 10/94)
CNN News Network (O.J. Simpson case, notebook) (7/94)
Naked Cafe, VH1, with Paula Cole (12/94)
Hard Copy, CBS Network Television (Susan Smith confession letter) (10/94)
Hard Copy, CBS Network Television (O.J. Simpson case)
Full Disclosure Washington, DC television show (Bill Clinton 1/96)
KABC TalkRadio with Mario Machado (2/96)
ABC Television 11:00 News (Florio-Buntin letter, re: Simpson case 3/96)
NBC Television 5:00 & 6:00 feature story with Paul Moyer(4/96)
KLSX Radio 97.1, Ricky Rackman Show (8/96)
NHK Japan interview with Mark Joseph (10/96)
UPN Strange Universe interview with Stacy Gualandi (10/96)
KFWB radio interview with John McDevitt (10/96)
KABC TalkRadio w/Doug Stephan (11/96)
NBC Rolonda Show interview re profiling of criminals (2/97)
Victoria Jones syndicated radio show (Jon Benet Ramsey) (5/97)
KNBC News w/Diane Diaz (10/98)

KCBS News w/Kyra Phyllips (11/98)
KPFK radio Nita Vallens, Inner Vision (8/99)
Cyberradiotv.com Ginny Harman live Internet show (8/99)
Fox Family Channel - Exploring the Unknown (11/99)
KABC Eyewitness News w/Lora McLaughlin (2/00)
Extra! (4/00)
KABC Eyewitness News - Anthrax letters (10/01)
ESPN, Unscripted with Chris Connelly - interview (11/01, 2/02, 4/02)
ABC (Australia) Radio Life Matters - interview (12/02)
A&E - Between the Lines - interview re handwriting of serial killers (2/04)
KVTA radio 1520, Bob & Dave Show (10/04)
Internet Podcast interview, www.lineofduty.com (1/06)
Good Day Arizona (5/07)

Some print interviews since 1996
L.A. Times, Life & Style, Beverly Beyette (2/96)
Cosmopolitan Magazine (3/96)
Article for The Globe (OJ Simpson Suicide letter, 9/96)
Interview for The Daily News (8/98)
Article for New Woman magazine (10/98)
L.A. Times, Beverly Beyette (Penmanship, 8/99)
Newhall Signal, Norinne De Gal (Book signing, 10/99)
National Enquirer (Jon Benet Ramsey, 10/00)
CLEARS (Law Enforcement magazine, graphology, 10/00)
Mademoiselle magazine (Dating, 12/00)
Woman's Day (for 4/02 issue)
Maxim (5/02?)
Esquire interview (2002)
Country Weekly (May, October, 2002)
Woman's World (Relationships, 10/8/02)
National Enquirer (Ramsey, 10/02)
Richmond Times Dispatch (VA Sniper, 10/23/02)
Teen People (5/03, 8/03, 9/03)
Herald Republic newspaper (IN, 6/11/03)
Ottawa Citizen newspaper (6/03)
Home.Com Russian magazine (Software review 6/03)
Tiger Beat magazine (6/04)
Us Magazine (6/04)
Us Magazine (12/05)
National Geographic for Kids (5/06)
National Enquirer regarding John Mark Karr and Ramsey Ransom Note (8/06)
Plain Dealer newspaper (OH 1/7/06)
National Law Journal (2/07)
Ventura County Star (3/07)
Philadelphia City Newspaper (4/07)
Plain and Simple magazine (5/07)

A SELECTION OF SOME HANDWRITING SEMINARS AND WORKSHOPS ATTENDED SINCE 1994:

National Association of Document Examiners National Conference, Tucson, AZ 2007
Forensic Expert Witness Association Expert Witness Summit, Newport Beach, CA 2006
AHAF/AAHA National Conference, Tucson, AZ, 2005
National Association of Document Examiners National Conference, Anaheim, CA 2004
American Handwriting Analysis Foundation National Conference, Costa Mesa, CA, 2003
National Association of Document Examiners National Conference, Albuquerque NM, 2000
Vanguard Regional Spring Seminar, Defense Mechanisms, Linda Larson, MA, Studio City, CA 1999
Association of Forensic Document Examiners National Conference, Scottsdale AZ, 1999
Behavioral Profiling, Vanguard Conference, Oxnard CA, 1998
American College of Forensic Examiners Scientific Academy and Retreat, Naples FL, 1998
Behavioral Profiling, Vanguard Conference, Asilomar CA, 1997
American College of Forensic Examiners Scientific Academy and Retreat, San Diego CA, 1997
Introduction to Criminal Profiling Course, 4 weeks (12 hours), Instructor: Brent Turvey, MS, 1997
Behavioral Profiling, Vanguard Conference, Tucson AZ, 1996
American College of Forensic Examiners Scientific Academy and Retreat, San Diego CA, 1996
Document Examination for the Graphologist, Katherine Koppenhaver, CDE, Beverly Hills CA, 1995
Vanguard Conference, Behavioral Profiling, Los Angeles CA, 1995
Adler's Typologies and Handwriting, Roger Rubin, Los Angeles CA, 1995
Dishonesty as Seen in Handwriting, Reed Hayes, San Diego CA, 1995
Handwriting Examination Conference, Institute of Graphological Sciences Conference, Dallas Tx, 1995
Handwriting & Personality Structure & Developmental Stages, Kay Talley, MA, San Diego Ca, 1995
National Association of Document Examiners Conference, Concord MA, 1994

BASIC FEE SCHEDULE

Retainer	$1000
Hourly rate	$195
Deposition	$700 up to two hours; $87 per 15 minute increment thereafter (local)
	$2200/full day (6 hours) plus expenses more than 100 miles each way
Court Appearance	$1800/day local or $2200/day plus expenses more than 100 miles each way

See retainer agreement for additional fee details.

SHEILA LOWE & ASSOCIATES

170 Dahlia Way ; Ventura CA 93004
Phone: (805) 658-0109 Fax: (805) 658-1013 sheila@sheilalowe.com www.sheilalowe.com

The Write Choice

April 25, 2012

To: Maryanne Phillips, MD
Re: Supplement to report of April 5, 2012

Dear Dr. Phillips,

I have further examined the handwriting in the body of several questioned prescriptions and compared them to known exemplars of your own handwriting, which also appears in the body of several prescriptions. I was able to confirm that the questioned writing is not consistent with your known writing. Attached hereto are demonstrative exhibits that illustrate several areas of important idiosyncratic differences.

I am on my way out of town this morning and will be back in my office next week. If you need anything further, I will be available to assist you at that time. Meanwhile, I can be reached at 805-341-7833 or by email. The prescriptions I examined are as follows:

KNOWN HANDWRITING OF MARYANNE PHILLIPS

02213-085-15
02099-197-05
02213086-25
02259-927-03 (AGO-0292)
02213-088-674 (AGO-0362)

QUESTIONED HANDWRITING

02043-188-91
02098-193-71
02098-196-50
02098-196-51
April 25, 2012

DECLARATION

I declare under penalty of perjury that I am a court-qualified examiner of questioned documents in the state of California. The document examination information published herein, along with the information in the comparison charts, and my curriculum vitae, transmitted herewith, is, to the best of my knowledge and belief, true and accurate. The foregoing notwithstanding, I reserve the right to re-evaluate my opinion if presented with new or previously unavailable evidence.

Sheila R. Lowe
Handwriting Examiner

#1

Eric Chase - (818) 599-4526

775-688-2559 x25

ALVERSON, TAYLOR,
MORTENSEN & SANDERS
KURT R. BONDS, ESQ.
Nevada Bar #6228
ALAN V. MULLINER, ESQ.
Nevada Bar #10409
7401 W. Charleston Boulevard
Las Vegas, NV 89117
(702) 384-7000
Attorney for
MARYANNE PHILLIPS, M.D.

BOARD OF MEDICAL EXAMINERS

STATE OF NEVADA

-*-

In the Matter of Charges and Complaint Against MARYANNE PHILLIPS, M.D. Respondent.	)	CASE NO. 09-10032-1

AFFIDAVIT OF MARTY MARTINEZ IN SUPPORT OF MARYANNE PHILLIPS, M.D.

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

Marty Martinez, being first duly sworn, on oath, deposes and says:

1. That I am a patient of Dr. Maryanne Phillips.

2. That I was visited at my home in Reno, Nevada by representatives of the Nevada Medical Board and interrogated about my relationship and treatment history with Dr. Maryanne Phillips.

3. That at the time of the visit I was under extreme duress because of the intimidating fashion in which I was interrogated.

ALVERSON, TAYLOR, MORTENSEN & SANDERS
LAWYERS
(702) 384-7000

4. That my wife and others who work for me were present in my home during this interrogation and I do not share my personal medical history with her or anyone else.

5. That representatives of the Nevada Medical Board shared my personal medical history with my wife and others without my authorization.

6. That I told the representatives of the Nevada Medical Board that I was out of the country on April 15, 2010, when in fact I did not leave the country until the last week of April 2010.

7. That I was seen in person by Dr. Phillips on April 15, 2010.

8. That I frequently travel between the United States, Africa and Europe and when interrogated I did not have my travel records available to me.

9. That in response to the Medical Board representatives' inquiry, I indicated that I had not been treated by Dr. Phillips because I did not want my wife to know that I actually had been treated by Dr. Phillips.

10. That Dr. Phillips and Don Kinsman were family friends until they had a falling out with my wife.

11. That I asked Don Kinsman on April 15, 2010 to pick up prescriptions for me because of my hectic travel schedule, as I have done on numerous occasions.

12. That I have a home in Reno, Nevada and Indian Wells, California and that Dr. Phillips has continually treated me at least every other month, most often in California.

13. That Dr. Phillips would call in prescriptions for me to the Reno, Nevada pharmacy because I have a home in Reno, Nevada.

///

14. That I make this statement in order to rescind any statements I made to the Nevada Medical Board under extreme duress when they interrogated me in my home in front of my wife and others about my personal medical history.

Further, your Affiant sayeth naught.

MARTY MARTINEZ

SUBSCRIBED and SWORN to before me
this 16 day of July, 2011.

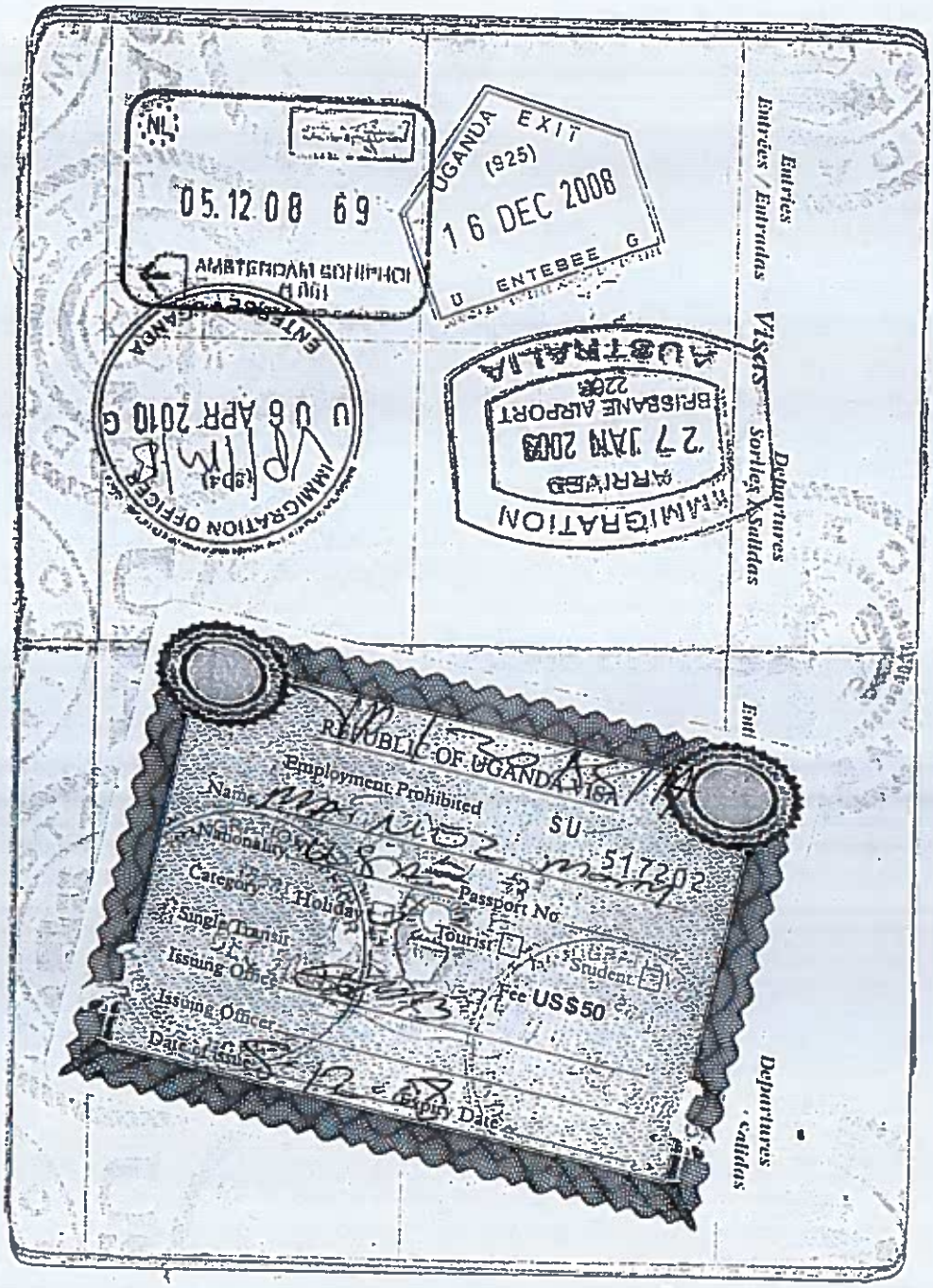
NOTARY PUBLIC for said County and State

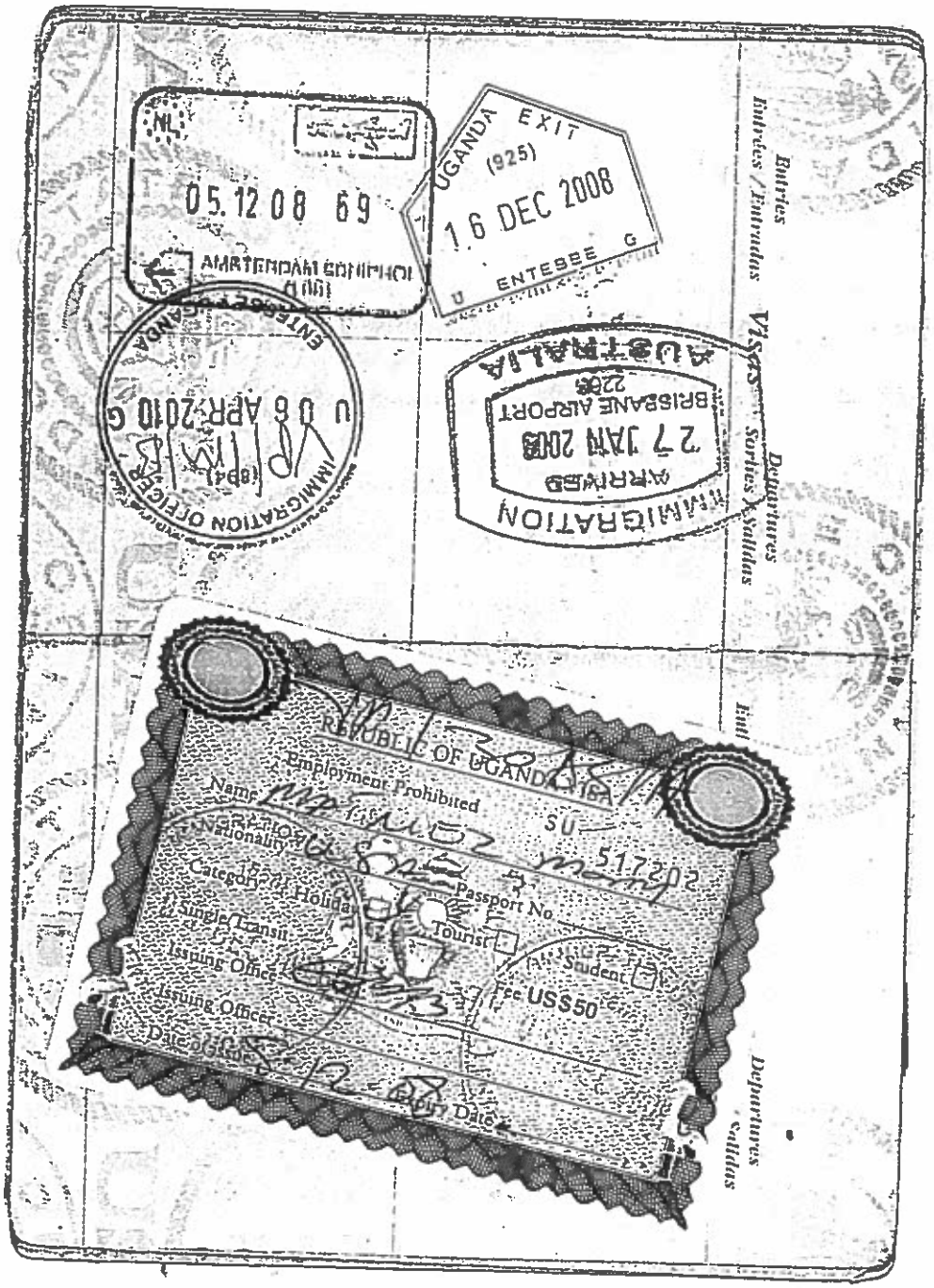
BETH SCHULER
COMM. #1862935
Notary Public - California
Riverside County
My Comm. Expires Sep. 24, 2013

DATED this 16 day of July, 2011.

ALVERSON, TAYLOR,
MORTENSEN & SANDERS

KURT R. BONDS, ESQ.
Nevada Bar #6228
ALAN V. MULLINER, ESQ.
Nevada Bar #10409
7401 W. Charleston Boulevard
Las Vegas, NV 89117
Attorney for
MARYANNE PHILLIPS, M.D.


Entries
Entries / Entradas
Visas
Departures
Sorties / Salidas
Entl
Departures
Salidas
NL
05.12.08 69
AMSTERDAM SCHIPHOL
UGANDA EXIT
(925)
16 DEC 2008
U ENTEBBE G
IMMIGRATION OFFICER
(924)
06 APR 2010
ENTEBBE UGANDA
IMMIGRATION
ARRIVED
27 JAN 2008
BRISBANE AIRPORT
22GR
AUSTRALIA
REPUBLIC OF UGANDA
Employment Prohibited
Name
Nationality
Category
Holiday
Single Transit
Tourist
Student
Passport No
Issuing Office
Fee US$50
Issuing Officer
Date of Issue
Expiry Date


NL
05.12 08 69
AMSTERDAM SCHIPHOL
UGANDA EXIT
(925)
16 DEC 2008
ENTEBBE
IMMIGRATION OFFICER
(984)
06 APR 2010
IMMIGRATION
ARRIVED
27 JAN 2008
BRISBANE AIRPORT
AUSTRALIA
Entries / Entrées
Visas
Departures / Sorties / Salidas
REPUBLIC OF UGANDA
Employment Prohibited
Name
Nationality
Passport No
Category
Holiday
Tourist
Student
Single/Transit
Fee US$50
Issuing Office
Issuing Officer
Date of Issue
Expiry Date

5

SHEILA LOWE & ASSOCIATES

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Phone: (805) 658-0109 Fax: (805) 658-1013 sheila@sheilalowe.com www.sheilalowe.com

The Write Choice

April 26, 2008

To Whom it May Concern

Re: Maryanne Phillips, MD
Handwriting Examination

I was requested to examine a series of prescription forms listed below to determine whether the handwriting on the forms matched handwriting exemplars of Dr. Phillips. Two prescription forms appear on each page. On some pages only one form is questioned. Only the questioned form is referenced here.

QUESTIONED DOCUMENTS

8/11/03	AGO-1010	6/28/02	AGO-1023
5/20/02	AGO-1010	1/31/03	AGO-1025
5/6/02	AGO-1011	2/4/03	AGO-1025
4/29/02	AGO-1012	1/20/03	AGO-1026
4/1/02	AGO-1012	1/20/03	AGO-1027
3/19/02	AGO-1013	2/14/03	AGO-1027
2/20/02	AGO-1013	3/13/03	AGO-1028
1/24/02	AGO-1014	5/7/03	AGO-1030
11/25/02	AGO-1015	5/17/03	AGO-1030
12/20/02	AGO-1015	10/10/03	AGO-1008
10/31/02	AGO-1016	9/5/03	AGO-1008
10/31/02	AGO-1016	8/11/03	AGO-1009
7/5/03	AGO-1017	8/11/03	AGO-1009
6/2/03	AGO-1018	10/01/02	AGO-1004
7/22/02	AGO-1020	10/01/02	AGO-1005
7/22/02	AGO-1021	10/01/02	AGO-1005
6/28/02	AGO-1021	8/5/02	AGO-1007
6/10/02	AGO-1022	9/12/02	AGO-1007

DECLARATION

I, Sheila Lowe, declare under penalty of perjury under the laws of the State of California, that I am a California court-qualified examiner of questioned documents. The above is my true and correct professional opinion and the document attached hereto accurately sets forth my experience and credentials.

NOTE: I reserve the right to alter or change my opinion if presented with additional evidence. Thank you for the opportunity to be of service.

Respectfully submitted,

Sheila R. Lowe
Handwriting Examiner

METHOD OF EXAMINATION

The documents listed above were scanned into a computer and viewed in a greatly enlarged state. The handwriting was then examined in terms of the three major aspects of handwriting commonly referenced in the field of handwriting analysis: spatial arrangement, writing form and writing movement. Individual letter forms were also examined and compared. Spatial arrangement refers to the space between letters and words and the arrangement of the composition relative to an actual or hypothetical baseline.

Writing form refers to the actual style (in typesetting what would be called the font) of the lettering (cursive, school model, printed), the simplicity or elaborateness of the writing, the size of the lettering, and the existence of flourishes in particular letters or groups of letters. Writing movement relates to the velocity of the writing as exhibited by the degree of pressure (i.e heavy or light lines), the pressure patterns (distribution of light/dark strokes), zonal proportions, and the slant of the letters and words.

FINDINGS AND CONCLUSIONS

I examined the known handwriting of Dr. Phillips on prescription forms and other documents and compared it with the handwriting found on the questioned documents using the methods described above.

Although the poor quality of the photocopies made it possible for me to carry out only a preliminary examination, there was enough evidence on some of the prescription forms, notably #1028, #1030, to conclude that the handwriting did not match that of Dr. Phillips.

I have requested the originals or better copies if further examination is required.

III. OPINION

Forgery of original signatures traditionally falls into three categories: simulation, freehand and tracing.[1] Freehand forgery makes no effort to copy the victim's actual signature, but instead the author signs the victim's name in the author's own handwriting. Simulation denotes an effort to mimic the authentic signature or writing of the victim. The freehand type appears to be present in this case.

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[1] With the advent of graphics software and high resolution color printers, forgery now also includes electronic reproduction.

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170 Dahlia Way Ventura CA 93004
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Curriculum Vitae
Sheila Lowe

GENERAL SUMMARY

With a background of more than thirty years as a specialist in the field of handwriting, Sheila Lowe provides a variety of services in handwriting examination. Her experience includes work with corporate clients, mental health professionals, police departments (U.S. and Australia), offices of the Public Defender, attorneys, and private investigators. She has been a court-appointed handwriting expert and her testimony has been accepted in the California Superior Court system since 1985. In 2005 she became approved by the State of California as a provider of continuing education credits for marriage and family therapists, with her handwriting analysis courses.

Ms. Lowe's range of experience in handwriting analysis encompasses many areas, including identifications of disputed signatures on wills, trust deeds, checks, credit card slips, invoices, worker's compensation forms, traffic citations, contracts. Also, handwriting identification on holographic wills, doctor's patient records, anonymous letters, suicide notes, celebrity impersonators; identification of initials. When interviewed along with four other handwriting experts on CNN regarding questioned handwriting in the O.J. Simpson case, Ms. Lowe's opinion opposed that of all the other examiners. Her opinion proved to be the correct one.

In another aspect of her business, she prepares behavioral profiles based on handwriting for corporate clients in hiring, management and promotion; for psychologists and private investigators, and individuals. Active in promoting professionalism in her field, she publishes *The Vanguard*, a periodical for handwriting professionals and serious students. Ms. Lowe has authored numerous monographs and trained those interested in pursuing a career in graphology. In 1995 she sponsored the first national Vanguard Conference, specifically designed to elevate the standards of handwriting analysts. She is the author *Sheila Lowe's Handwriting Analyzer* software, which is currently being used around the world by a variety of clients, including law enforcement, psychologists and human resource professionals, as well as several books.

Originally founded in 1984 as The Graphology Center, Ms. Lowe's company, now Sheila Lowe & Associates, *The Write Choice!* serves a broad spectrum of clients in fields extending from staffing to real estate, financial services, psychologists, private investigations, medical, construction, hospitality, automotive, and others. Clients have included Target Stores, Nabisco, Zales Jewelers, On the Beach Sportswear, Republic Insurance, West Los Angeles School District, Rowland School District, Hart School District, Nature's Best Foods, Unsolved Mysteries, National Association of Letter Carriers.

PROFESSIONAL MEMBERSHIPS & AFFILIATIONS

ASTM International. Forum to establish standards for testing and measurements. Voting member of Forensic Sciences subgroup Document Examination (E30.02).

National Association of Document Examiners. Member (also NADE Forum Online member). Membership is by recommendation. Member, Professional Development Committee.

State of California Board of Behavioral Sciences. Approved Continuing Education Provider, Approval No. PCE 3603.

American Handwriting Analysis Foundation (Ret.)
Certified 1982
Member, board of directors, 1984-1994
Editor of *AHAF Journal,* 1984-1992
National Chapter Coordinator, 1992-1994
Judge and consultant for the Certification Committee, 1984-1994
Founding member of the Los Angeles Chapter of AHAF (1982) and secretary 1982-1985
Membership chairman 1985-1993
Chapter president, 1985 and 1994
National conference program chairperson, 1986, 1993

Ventura Chamber of Commerce, member 2004-2006; Ambassador, 2005-2006

Ventura County Professional Women's Network, Membership Committee; Board of Directors as *Focal Points* Editor, 2005-current.

Qualified as a Handwriting Expert; Court appointed Handwriting Expert, California Superior Courts since 1985.

Society of Handwriting Analysts of Washington, DC. Certified 1985.

College of the Canyons, Instructor (extension program for adult ed.) – Introduction to Handwriting Psychology 1997, 1998, 2003.

PROFESSIONAL EDUCATION AND TRAINING

Handwriting Examination & Roman-Staempfli Courses, 1977
Handwriting Analysis Workshop Unlimited (Charlie Cole, world-renowned handwriting examiner).

Handwriting Examination Workshop, 1988, and one-on-one mentorship/peer review
Judith Housley, Document Examiner of Record for the State of New Mexico.

Handwriting Examination Course, 1992
Paul Weast, nationally recognized handwriting examiner.

West Los Angeles College, 1990
Abnormal Psychology

Scientific Content Analysis course, Seattle, 1995
Through the Seattle Police Department, with Mr. Avinoam Sapir (Laboratory for Scientific Interrogation), formerly of the Israeli Police Department, and a polygraph specialist.

Bachelor of Science, Psychology, California Coast University, 2005

SignaScan Laboratory, 2006 - Special training in identification of synchronous writing and ink striation analysis.

NADE Conference May 16-20, 2007 – Tucson, Arizona – 25 ½ hours

- Introduction to Print Identification, Joe Barabe
- Art and Artefacts Forgery Identification, Graham Ospreay
- Decoding Identifying Printer Information, Seth Schoen
- Forgery Science, An Interactive Workshop, Dr. Bryan Found
- Assessing Dynamic Features From Handwriting, Dr. Hans-Leo Teulings & H. Harralson, CDE
- Conducting An Observed Document Examination, Larry Liebscher, CDE
- Extreme Grips, Jacqueline Joseph, CDE
- An Introduction to Solid Ink Printers, Cina Wong, CDE
- Working with the Media, Ruth Holmes, CDE

AHAF/AAHA Conference July 26-29, 2007 – Santa Clara, California – 20 hours

- Handwriting Analysis Research Library, video presentation
- Early Memories and Handwriting, Linda Larson
- Physiology and Handwriting, Marcel Matley
- Personality Styles Seen with NLP and Handwriting Analysis, Danny Burton
- The Persona and Handwriting, Debby Peddy
- From Mind to Hand–Artists and their Handwriting, Susanne Shapiro
- Print v. Cursive Handwriting in School, Graziella Petinatti
- Comparative Analysis (presenter)
- Alpha Beta Workshop, Heidi Harralson, Tricia Clapp
- The New American Alphabet Model, Iris Hatfield
- An Introduction to the Moretti Method, Claudio Garibaldi
- Bringing Handwriting Analysis to the Mental Health Professional (presenter)
- A Case of Borderline Personality Disorder Seen in Handwriting, Jeanette Farmer

A SMALL SELECTION OF LECTURES PRESENTED SINCE 1995:

IGAS South Carolina, Marriage & Family Therapists CEU, 2007 for CEU
Ventura County Bar Association; 2006 for MCLE
Kern County Bar Association; 2006 for MCLE
Home Savings assistant bank managers – Preventing Signature Fraud; 2006
American Handwriting Analysis Foundation National Conference; 2005
Kern County Paralegal Association; 2003, 2004 for MCLE
American Handwriting Analysis Foundation National Conference; 2003
Handwriting Examination Workshop; 2003
Graphodigest 2nd Virtual Conference for Graphology; 2001
National Association of Document Examiners, National Conference, 2000, Albuquerque NM
National Association of Document Examiners, National Conference, 1994, Boston MA;
American Association of Handwriting Analysts Regional Seminar, Detroit MI, 1999
American Handwriting Analysis Foundation Regional Seminar, Tucson AZ, 1999
International Graphological Colloquium, 1998 Montreal Canada
American College of Forensic Examiners Conference, 1998, Naples FL
Vanguard Regional Seminar, 1998, Dallas TX
International Graphological Society, 1998, London England
American College of Forensic Examiners Conference, 1996, San Diego CA

Pacific Union Club, 1996, San Francisco CA
Vanguard National Conference, Tucson 1996, Asilomar 1997, Oxnard 1998
Institute of Graphological Sciences, National Conference, 1995, Dallas TX
National Society for Graphology, 1995, New York NY
Numerous civic and business organizations

PUBLICATIONS

Spirit, Southwest Airlines in-flight magazine (January, 2008)
San Fernando Valley Bar Association Magazine part II (July/Aug 2007)
San Fernando Valley Bar Association Magazine part I (Sept/Oct, 2006)
Santa Barbara County Bar Association Magazine (2006)
San Luis Obispo County Bar Association Magazine: *Bar Bulletin*: Personality Profiling and Handwriting Analysis for the Attorney (May, 2006)
PI magazine: Handwriting Analysis for the Private Investigator (April, 2006)
SOBRAG, national journal of the Graphological Society of Brazil (2006)
Clark County NV Bar Association Magazine: *Communique*: Handwriting Analysis in Employment Screening (scheduled for publication July, 2006)
Teen magazine article (scheduled for publication July, 2006)
San Luis Obispo County Bar Association Magazine: *Bar Bulletin*: Forgery and the Handwriting Expert (January, 2006)
San Bernardino County Bar Association Magazine: *Bar Bulletin:* Forgery and the Handwriting Expert (October, 2005)
San Bernardino County Bar Association Magazine: *Bar Bulletin:* Personality Profiling and Handwriting Analysis for the Attorney (September, 2005)
Ventura County Bar Association Magazine: *Citations*: Forgery and the Handwriting Expert (April, 2005)
Orange County Bar Association Magazine: *Orange County Lawyer*: Personality Profiling and Handwriting Analysis for the Attorney (January, 2005)
Orange County Bar Association Magazine: *Orange County Lawyer*: Forgery and the Handwriting Expert – What Attorneys Need to Know (September, 2004)
Handwriting of the Famous & Infamous (Metro Books, 2001)
NADE Journal (National Association of Document Examiners) article, February-March, 2000
Time magazine article (analysis of G8 Summit Leaders, August, 2000)
The Complete Idiot's Guide to Handwriting Analysis (Macmillan, 1999, second ed. Penguin, 2007)
Sheila Lowe's Handwriting Analyzer software (with RI Software)
NADE Journal (National Association of Document Examiners), 2000
Monographs on the subject of handwriting and behavior, which include:

Character Structure & Handwriting; Coping & Defense Mechanisms in Handwriting; Jung's Typologies & Handwriting; Serial Killers, The Face of Evil; Answers to Legal Questions for Handwriting Analysts (with David Robinson, Esq.); *Looking at the Big Picture; Graphology in Business; Marketing Tools for the Handwriting Professional; Introduction to Gestalt Graphology; Professional Graphology, the Next Step; Lectures that Sell; Compendium of Descriptive Paragraphs; Beneath it All; Jung's Typologies Applied to Handwriting*

Editor and Publisher of *The Vanguard,* a periodical for handwriting professionals since 1992

Articles for newsletters and handwriting analysis journals, which include: *AAHA Dialogue, AHAF Journal, Write-Up, The Graphologist* (British Institute of Graphology) as well as journal of handwriting analysis in Switzerland.

RESEARCH:

Participated in a published study on Multiple Personality Disorder, Sperry Lab, Calif. Polytechnic Institute
Presented original research on left-handedness at 1984 AHAF Annual Conference
Presented original research on personal pronoun I at 1990 AHAF Annual Conference
Currently researching criminal behavior and handwriting with law enforcement and mental health professionals

AWARDS & HONOR SOCIETY MEMBERSHIPS:

International Honor Society, Delta Episoln Tau – Gamma of California.
Recipient, AHAF President's Award for *Outstanding Achievement and Accomplishment in the Field of Handwriting,* Tucson, 1991.

EQUIPMENT USED:

Stereo microscope; transmitted light apparatus, Hewlett Packard 7410 scanner and Canon iDE90 scanner, measuring calipers and other measurement tools. Sony Mavica digital camera.

SOME MEDIA APPEARANCES

Television & Radio Interviews

Unsolved Mysteries NBC Network Television (1991)
The Elvis Conspiracy KTLA Television Special (1992)
Jay Thomas Show KPWR Power 106 radio (1992)
KTLA Morning Show (2/94)
Case Closed, USA Network (2/94)
KABC TalkRadio with Tom Hall (2/94, 7/94, 2/95)
Hard Copy, NBC Network Television (O.J. Simpson case, notebook) (7/94, 10/94)
CNN News Network (O.J. Simpson case, notebook) (7/94)
Naked Cafe, VH1, with Paula Cole (12/94)
Hard Copy, CBS Network Television (Susan Smith confession letter) (10/94)
Hard Copy, CBS Network Television (O.J. Simpson case)
Full Disclosure Washington, DC television show (Bill Clinton 1/96)
KABC TalkRadio with Mario Machado (2/96)
ABC Television 11:00 News (Florio-Buntin letter, re: Simpson case 3/96)
NBC Television 5:00 & 6:00 feature story with Paul Moyer(4/96)
KLSX Radio 97.1, Ricky Rackman Show (8/96)
NHK Japan interview with Mark Joseph (10/96)
UPN Strange Universe interview with Stacy Gualandi (10/96)
KFWB radio interview with John McDevitt (10/96)
KABC TalkRadio w/Doug Stephan (11/96)
NBC Rolonda Show interview re profiling of criminals (2/97)
Victoria Jones syndicated radio show (Jon Benet Ramsey) (5/97)
KNBC News w/Diane Diaz (10/98)

KCBS News w/Kyra Phyllips (11/98)
KPFK radio Nita Vallens, Inner Vision (8/99)
Cyberradiotv.com Ginny Harman live Internet show (8/99)
Fox Family Channel - Exploring the Unknown (11/99)
KABC Eyewitness News w/Lora McLaughlin (2/00)
Extra! (4/00)
KABC Eyewitness News - Anthrax letters (10/01)
ESPN, Unscripted with Chris Connelly - interview (11/01, 2/02, 4/02)
ABC (Australia) Radio Life Matters - interview (12/02)
A&E - Between the Lines - interview re handwriting of serial killers (2/04)
KVTA radio 1520, Bob & Dave Show (10/04)
Internet Podcast interview, www.lineofduty.com (1/06)
Good Day Arizona (5/07)

Some print interviews since 1996
L.A. Times, Life & Style, Beverly Beyette (2/96)
Cosmopolitan Magazine (3/96)
Article for The Globe (OJ Simpson Suicide letter, 9/96)
Interview for The Daily News (8/98)
Article for New Woman magazine (10/98)
L.A. Times, Beverly Beyette (Penmanship, 8/99)
Newhall Signal, Norinne De Gal (Book signing, 10/99)
National Enquirer (Jon Benet Ramsey, 10/00)
CLEARS (Law Enforcement magazine, graphology, 10/00)
Mademoiselle magazine (Dating, 12/00)
Woman's Day (for 4/02 issue)
Maxim (5/02?)
Esquire interview (2002)
Country Weekly (May, October, 2002)
Woman's World (Relationships, 10/8/02)
National Enquirer (Ramsey, 10/02)
Richmond Times Dispatch (VA Sniper, 10/23/02)
Teen People (5/03, 8/03, 9/03)
Herald Republic newspaper (IN, 6/11/03)
Ottawa Citizen newspaper (6/03)
Home.Com Russian magazine (Software review 6/03)
Tiger Beat magazine (6/04)
Us Magazine (6/04)
Us Magazine (12/05)
National Geographic for Kids (5/06)
National Enquirer regarding John Mark Karr and Ramsey Ransom Note (8/06)
Plain Dealer newspaper (OH 1/7/06)
National Law Journal (2/07)
Ventura County Star (3/07)
Philadelphia City Newspaper (4/07)
Plain and Simple magazine (5/07)

A SELECTION OF SOME HANDWRITING SEMINARS AND WORKSHOPS ATTENDED SINCE 1994:

National Association of Document Examiners National Conference, Tucson, AZ 2007
Forensic Expert Witness Association Expert Witness Summit, Newport Beach, CA 2006
AHAF/AAHA National Conference, Tucson, AZ, 2005
National Association of Document Examiners National Conference, Anaheim, CA 2004
American Handwriting Analysis Foundation National Conference, Costa Mesa, CA, 2003
National Association of Document Examiners National Conference, Albuquerque NM, 2000
Vanguard Regional Spring Seminar, Defense Mechanisms, Linda Larson, MA, Studio City, CA 1999
Association of Forensic Document Examiners National Conference, Scottsdale AZ, 1999
Behavioral Profiling, Vanguard Conference, Oxnard CA, 1998
American College of Forensic Examiners Scientific Academy and Retreat, Naples FL, 1998
Behavioral Profiling, Vanguard Conference, Asilomar CA, 1997
American College of Forensic Examiners Scientific Academy and Retreat, San Diego CA, 1997
Introduction to Criminal Profiling Course, 4 weeks (12 hours), Instructor: Brent Turvey, MS, 1997
Behavioral Profiling, Vanguard Conference, Tucson AZ, 1996
American College of Forensic Examiners Scientific Academy and Retreat, San Diego CA, 1996
Document Examination for the Graphologist, Katherine Koppenhaver, CDE, Beverly Hills CA, 1995
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The Write Choice

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Phone: (805) 658-0109 Fax: (805) 658-1013 sheila@sheilalowe.com www.sheilalowe.com

April 25, 2012

To: Maryanne Phillips, MD
Re: Supplement to report of April 5, 2012

Dear Dr. Phillips,

I have further examined the handwriting in the body of several questioned prescriptions and compared them to known exemplars of your own handwriting, which also appears in the body of several prescriptions. I was able to confirm that the questioned writing is not consistent with your known writing. Attached hereto are demonstrative exhibits that illustrate several areas of important idiosyncratic differences.

I am on my way out of town this morning and will be back in my office next week. If you need anything further, I will be available to assist you at that time. Meanwhile, I can be reached at 805-341-7833 or by email. The prescriptions I examined are as follows:

KNOWN HANDWRITING OF MARYANNE PHILLIPS

02213-085-15
02099-197-05
02213086-25
02259-927-03 (AGO-0292)
02213-088-674 (AGO-0362)

QUESTIONED HANDWRITING

02043-188-91
02098-193-71
02098-196-50
02098-196-51
April 25, 2012

DECLARATION

I declare under penalty of perjury that I am a court-qualified examiner of questioned documents in the state of California. The document examination information published herein, along with the information in the comparison charts, and my curriculum vitae, transmitted herewith, is, to the best of my knowledge and belief, true and accurate. The foregoing notwithstanding, I reserve the right to re-evaluate my opinion if presented with new or previously unavailable evidence.

Sheila R. Lowe
Handwriting Examiner

#1

Eric Chase - (818) 599-4526

775-688-2559 x25

ALVERSON, TAYLOR,
MORTENSEN & SANDERS
KURT R. BONDS, ESQ.
Nevada Bar #6228
ALAN V. MULLINER, ESQ.
Nevada Bar #10409
7401 W. Charleston Boulevard
Las Vegas, NV 89117
(702) 384-7000
Attorney for
MARYANNE PHILLIPS, M.D.

BOARD OF MEDICAL EXAMINERS

STATE OF NEVADA

-*-

In the Matter of Charges and Complaint Against MARYANNE PHILLIPS, M.D. Respondent.	)	CASE NO. 09-10032-1

AFFIDAVIT OF MARTY MARTINEZ IN SUPPORT OF MARYANNE PHILLIPS, M.D.

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

Marty Martinez, being first duly sworn, on oath, deposes and says:

1. That I am a patient of Dr. Maryanne Phillips.

2. That I was visited at my home in Reno, Nevada by representatives of the Nevada Medical Board and interrogated about my relationship and treatment history with Dr. Maryanne Phillips.

3. That at the time of the visit I was under extreme duress because of the intimidating fashion in which I was interrogated.

4. That my wife and others who work for me were present in my home during this interrogation and I do not share my personal medical history with her or anyone else.

5. That representatives of the Nevada Medical Board shared my personal medical history with my wife and others without my authorization.

6. That I told the representatives of the Nevada Medical Board that I was out of the country on April 15, 2010, when in fact I did not leave the country until the last week of April 2010.

7. That I was seen in person by Dr. Phillips on April 15, 2010.

8. That I frequently travel between the United States, Africa and Europe and when interrogated I did not have my travel records available to me.

9. That in response to the Medical Board representatives' inquiry, I indicated that I had not been treated by Dr. Phillips because I did not want my wife to know that I actually had been treated by Dr. Phillips.

10. That Dr. Phillips and Don Kinsman were family friends until they had a falling out with my wife.

11. That I asked Don Kinsman on April 15, 2010 to pick up prescriptions for me because of my hectic travel schedule, as I have done on numerous occasions.

12. That I have a home in Reno, Nevada and Indian Wells, California and that Dr. Phillips has continually treated me at least every other month, most often in California.

13. That Dr. Phillips would call in prescriptions for me to the Reno, Nevada pharmacy because I have a home in Reno, Nevada.

///

14. That I make this statement in order to rescind any statements I made to the Nevada Medical Board under extreme duress when they interrogated me in my home in front of my wife and others about my personal medical history.

Further, your Affiant sayeth naught.

MARTY MARTINEZ

SUBSCRIBED and SWORN to before me
this 16 day of July, 2011.

NOTARY PUBLIC for said County and State

BETH SCHULER
COMM. #1862935
Notary Public - California
Riverside County
My Comm. Expires Sep. 24, 2013

DATED this 16 day of July, 2011.

ALVERSON, TAYLOR,
MORTENSEN & SANDERS

KURT R. BONDS, ESQ.
Nevada Bar #6228
ALAN V. MULLINER, ESQ.
Nevada Bar #10409
7401 W. Charleston Boulevard
Las Vegas, NV 89117
Attorney for
MARYANNE PHILLIPS, M.D.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

NL
05.12.08 69
AMSTERDAM SCHIPHOL
UGANDA EXIT
(925)
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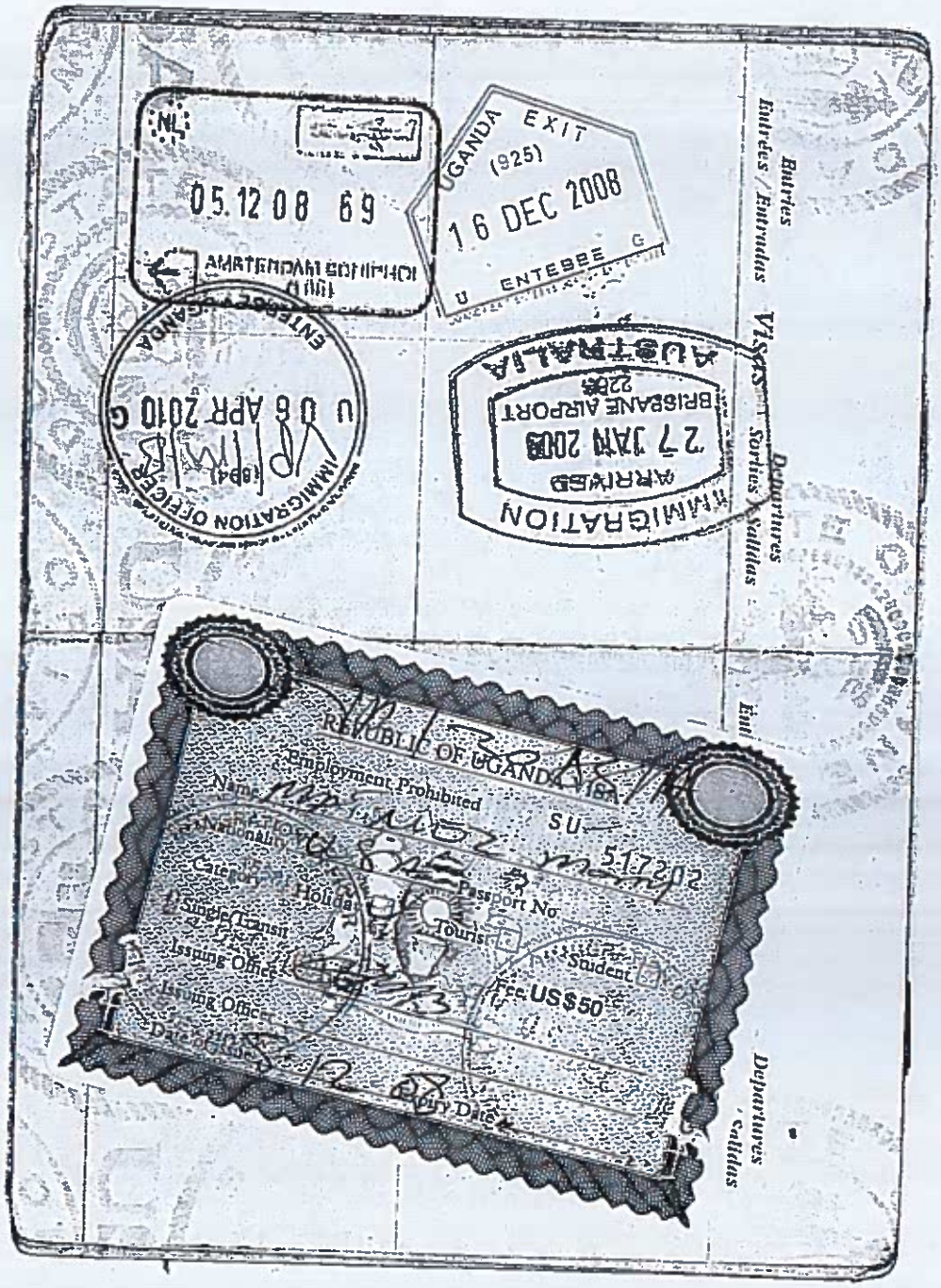
IMMIGRATION OFFICER
(PDI)
06 APR 2010
ENTEBBE UGANDA
IMMIGRATION
ARRIVED
27 JAN 2008
BRISBANE AIRPORT
22GE
AUSTRALIA
Entries
Entrées / Entradas
Visas
Departures
Sorties / Salidas
REPUBLIC OF UGANDA
Employment Prohibited
Name
Nationality
Passport No.
Category
Holiday
Tourist
Student
Single/Transit
Fee US$50
Issuing Office
Issuing Officer
Date of Issue
Expiry Date
Departures
Sorties
Salidas


Entries
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AMSTERDAM SCHIPHOL
IMMIGRATION
ARRIVED
27 JAN 2008
BRISBANE AIRPORT
AUSTRALIA
IMMIGRATION OFFICER
ENTEBBE UGANDA
(984)
08 APR 2010
REPUBLIC OF UGANDA VISA
Employment Prohibited
Name
Nationality
Passport No
Category
Holiday
Tourist
Student
Single Transit
Fee US$50
Issuing Office
Issuing Office
Date Issued
Expiry Date

5

SHEILA LOWE & ASSOCIATES

170 Dahlia Way ; Ventura CA 93004
Phone: (805) 658-0109 Fax: (805) 658-1013 sheila@sheilalowe.com www.sheilalowe.com

The Write Choice

April 26, 2008

To Whom it May Concern

Re: Maryanne Phillips, MD
_____Handwriting Examination

I was requested to examine a series of prescription forms listed below to determine whether the handwriting on the forms matched handwriting exemplars of Dr. Phillips. Two prescription forms appear on each page. On some pages only one form is questioned. Only the questioned form is referenced here.

QUESTIONED DOCUMENTS

8/11/03	AGO-1010
5/20/02	AGO-1010
5/6/02	AGO-1011
4/29/02	AGO-1012
4/1/02	AGO-1012
3/19/02	AGO-1013
2/20/02	AGO-1013
1/24/02	AGO-1014
11/25/02	AGO-1015
12/20/02	AGO-1015
10/31/02	AGO-1016
10/31/02	AGO-1016
7/5/03	AGO-1017
6/2/03	AGO-1018
7/22/02	AGO-1020
7/22/02	AGO-1021
6/28/02	AGO-1021
6/10/02	AGO-1022
6/28/02	AGO-1023
1/31/03	AGO-1025
2/4/03	AGO-1025
1/20/03	AGO-1026
1/20/03	AGO-1027
2/14/03	AGO-1027
3/13/03	AGO-1028
5/7/03	AGO-1030
5/17/03	AGO-1030
10/10/03	AGO-1008
9/5/03	AGO-1008
8/11/03	AGO-1009
8/11/03	AGO-1009
10/01/02	AGO-1004
10/01/02	AGO-1005
10/01/02	AGO-1005
8/5/02	AGO-1007
9/12/02	AGO-1007

DECLARATION

I, Sheila Lowe, declare under penalty of perjury under the laws of the State of California, that I am a California court-qualified examiner of questioned documents. The above is my true and correct professional opinion and the document attached hereto accurately sets forth my experience and credentials.

NOTE: I reserve the right to alter or change my opinion if presented with additional evidence. Thank you for the opportunity to be of service.

Respectfully submitted,

Sheila R. Lowe
Handwriting Examiner

SHEILA LOWE & ASSOCIATES
170 Dahlia Way Ventura CA 93004
(805) 658-0109 Fax: (805) 658-1013 sheila@sheilalowe.com; www.sheilalowe.com

Curriculum Vitae
Sheila Lowe

GENERAL SUMMARY

With a background of more than thirty years as a specialist in the field of handwriting, Sheila Lowe provides a variety of services in handwriting examination. Her experience includes work with corporate clients, mental health professionals, police departments (U.S. and Australia), offices of the Public Defender, attorneys, and private investigators. She has been a court-appointed handwriting expert and her testimony has been accepted in the California Superior Court system since 1985. In 2005 she became approved by the State of California as a provider of continuing education credits for marriage and family therapists, with her handwriting analysis courses.

Ms. Lowe's range of experience in handwriting analysis encompasses many areas, including identifications of disputed signatures on wills, trust deeds, checks, credit card slips, invoices, worker's compensation forms, traffic citations, contracts. Also, handwriting identification on holographic wills, doctor's patient records, anonymous letters, suicide notes, celebrity impersonators; identification of initials. When interviewed along with four other handwriting experts on CNN regarding questioned handwriting in the O.J. Simpson case, Ms. Lowe's opinion opposed that of all the other examiners. Her opinion proved to be the correct one.

In another aspect of her business, she prepares behavioral profiles based on handwriting for corporate clients in hiring, management and promotion; for psychologists and private investigators, and individuals. Active in promoting professionalism in her field, she publishes *The Vanguard*, a periodical for handwriting professionals and serious students. Ms. Lowe has authored numerous monographs and trained those interested in pursuing a career in graphology. In 1995 she sponsored the first national Vanguard Conference, specifically designed to elevate the standards of handwriting analysts. She is the author *Sheila Lowe's Handwriting Analyzer* software, which is currently being used around the world by a variety of clients, including law enforcement, psychologists and human resource professionals, as well as several books.

Originally founded in 1984 as The Graphology Center, Ms. Lowe's company, now Sheila Lowe & Associates, *The Write Choice!* serves a broad spectrum of clients in fields extending from staffing to real estate, financial services, psychologists, private investigations, medical, construction, hospitality, automotive, and others. Clients have included Target Stores, Nabisco, Zales Jewelers, On the Beach Sportswear, Republic Insurance, West Los Angeles School District, Rowland School District, Hart School District, Nature's Best Foods, Unsolved Mysteries, National Association of Letter Carriers.

PROFESSIONAL MEMBERSHIPS & AFFILIATIONS

ASTM International. Forum to establish standards for testing and measurements. Voting member of Forensic Sciences subgroup Document Examination (E30.02).

National Association of Document Examiners. Member (also NADE Forum Online member). Membership is by recommendation. Member, Professional Development Committee.

State of California Board of Behavioral Sciences. Approved Continuing Education Provider, Approval No. PCE 3603.

American Handwriting Analysis Foundation (Ret.)
Certified 1982
Member, board of directors, 1984-1994
Editor of *AHAF Journal,* 1984-1992
National Chapter Coordinator, 1992-1994
Judge and consultant for the Certification Committee, 1984-1994
Founding member of the Los Angeles Chapter of AHAF (1982) and secretary 1982-1985
Membership chairman 1985-1993
Chapter president, 1985 and 1994
National conference program chairperson, 1986, 1993

Ventura Chamber of Commerce, member 2004-2006; Ambassador, 2005-2006

Ventura County Professional Women's Network, Membership Committee; Board of Directors as *Focal Points* Editor, 2005-current.

Qualified as a Handwriting Expert; Court appointed Handwriting Expert, California Superior Courts since 1985.

Society of Handwriting Analysts of Washington, DC. Certified 1985.

College of the Canyons, Instructor (extension program for adult ed.) – Introduction to Handwriting Psychology 1997, 1998, 2003.

PROFESSIONAL EDUCATION AND TRAINING

Handwriting Examination & Roman-Staempfli Courses, 1977
Handwriting Analysis Workshop Unlimited (Charlie Cole, world-renowned handwriting examiner).

Handwriting Examination Workshop, 1988, and one-on-one mentorship/peer review
Judith Housley, Document Examiner of Record for the State of New Mexico.

Handwriting Examination Course, 1992
Paul Weast, nationally recognized handwriting examiner.

West Los Angeles College, 1990
Abnormal Psychology

Scientific Content Analysis course, Seattle, 1995
Through the Seattle Police Department, with Mr. Avinoam Sapir (Laboratory for Scientific Interrogation), formerly of the Israeli Police Department, and a polygraph specialist.

Bachelor of Science, Psychology, California Coast University, 2005

SignaScan Laboratory, 2006 - Special training in identification of synchronous writing and ink striation analysis.

NADE Conference May 16-20, 2007 – Tucson, Arizona – 25 ½ hours

- Introduction to Print Identification, Joe Barabe
- Art and Artefacts Forgery Identification, Graham Ospreay
- Decoding Identifying Printer Information, Seth Schoen
- Forgery Science, An Interactive Workshop, Dr. Bryan Found
- Assessing Dynamic Features From Handwriting, Dr. Hans-Leo Teulings & H. Harralson, CDE
- Conducting An Observed Document Examination, Larry Liebscher, CDE
- Extreme Grips, Jacqueline Joseph, CDE
- An Introduction to Solid Ink Printers, Cina Wong, CDE
- Working with the Media, Ruth Holmes, CDE

AHAF/AAHA Conference July 26-29, 2007 – Santa Clara, California – 20 hours

- Handwriting Analysis Research Library, video presentation
- Early Memories and Handwriting, Linda Larson
- Physiology and Handwriting, Marcel Matley
- Personality Styles Seen with NLP and Handwriting Analysis, Danny Burton
- The Persona and Handwriting, Debby Peddy
- From Mind to Hand–Artists and their Handwriting, Susanne Shapiro
- Print v. Cursive Handwriting in School, Graziella Petinatti
- Comparative Analysis (presenter)
- Alpha Beta Workshop, Heidi Harralson, Tricia Clapp
- The New American Alphabet Model, Iris Hatfield
- An Introduction to the Moretti Method, Claudio Garibaldi
- Bringing Handwriting Analysis to the Mental Health Professional (presenter)
- A Case of Borderline Personality Disorder Seen in Handwriting, Jeanette Farmer

A SMALL SELECTION OF LECTURES PRESENTED SINCE 1995:

IGAS South Carolina, Marriage & Family Therapists CEU, 2007 for CEU
Ventura County Bar Association; 2006 for MCLE
Kern County Bar Association; 2006 for MCLE
Home Savings assistant bank managers – Preventing Signature Fraud; 2006
American Handwriting Analysis Foundation National Conference; 2005
Kern County Paralegal Association; 2003, 2004 for MCLE
American Handwriting Analysis Foundation National Conference; 2003
Handwriting Examination Workshop; 2003
Graphodigest 2nd Virtual Conference for Graphology; 2001
National Association of Document Examiners, National Conference, 2000, Albuquerque NM
National Association of Document Examiners, National Conference, 1994, Boston MA;
American Association of Handwriting Analysts Regional Seminar, Detroit MI, 1999
American Handwriting Analysis Foundation Regional Seminar, Tucson AZ, 1999
International Graphological Colloquium, 1998 Montreal Canada
American College of Forensic Examiners Conference, 1998, Naples FL
Vanguard Regional Seminar, 1998, Dallas TX
International Graphological Society, 1998, London England
American College of Forensic Examiners Conference, 1996, San Diego CA

Pacific Union Club, 1996, San Francisco CA
Vanguard National Conference, Tucson 1996, Asilomar 1997, Oxnard 1998
Institute of Graphological Sciences, National Conference, 1995, Dallas TX
National Society for Graphology, 1995, New York NY
Numerous civic and business organizations

PUBLICATIONS

Spirit, Southwest Airlines in-flight magazine (January, 2008)
San Fernando Valley Bar Association Magazine part II (July/Aug 2007)
San Fernando Valley Bar Association Magazine part I (Sept/Oct, 2006)
Santa Barbara County Bar Association Magazine (2006)
San Luis Obispo County Bar Association Magazine: *Bar Bulletin*: Personality Profiling and Handwriting Analysis for the Attorney (May, 2006)
PI magazine: Handwriting Analysis for the Private Investigator (April, 2006)
SOBRAG, national journal of the Graphological Society of Brazil (2006)
Clark County NV Bar Association Magazine: *Communique*: Handwriting Analysis in Employment Screening (scheduled for publication July, 2006)
Teen magazine article (scheduled for publication July, 2006)
San Luis Obispo County Bar Association Magazine: *Bar Bulletin*: Forgery and the Handwriting Expert (January, 2006)
San Bernardino County Bar Association Magazine: *Bar Bulletin:* Forgery and the Handwriting Expert (October, 2005)
San Bernardino County Bar Association Magazine: *Bar Bulletin:* Personality Profiling and Handwriting Analysis for the Attorney (September, 2005)
Ventura County Bar Association Magazine: *Citations*: Forgery and the Handwriting Expert (April, 2005)
Orange County Bar Association Magazine: *Orange County Lawyer*: Personality Profiling and Handwriting Analysis for the Attorney (January, 2005)
Orange County Bar Association Magazine: *Orange County Lawyer*: Forgery and the Handwriting Expert – What Attorneys Need to Know (September, 2004)
Handwriting of the Famous & Infamous (Metro Books, 2001)
NADE Journal (National Association of Document Examiners) article, February-March, 2000
Time magazine article (analysis of G8 Summit Leaders, August, 2000)
The Complete Idiot's Guide to Handwriting Analysis (Macmillan, 1999, second ed. Penguin, 2007)
Sheila Lowe's Handwriting Analyzer software (with RI Software)
NADE Journal (National Association of Document Examiners), 2000
Monographs on the subject of handwriting and behavior, which include:

Character Structure & Handwriting; Coping & Defense Mechanisms in Handwriting; Jung's Typologies & Handwriting; Serial Killers, The Face of Evil; *Answers to Legal Questions for Handwriting Analysts* (with David Robinson, Esq.); *Looking at the Big Picture; Graphology in Business; Marketing Tools for the Handwriting Professional; Introduction to Gestalt Graphology; Professional Graphology, the Next Step; Lectures that Sell; Compendium of Descriptive Paragraphs; Beneath it All; Jung's Typologies Applied to Handwriting*

Editor and Publisher of *The Vanguard*, a periodical for handwriting professionals since 1992

Articles for newsletters and handwriting analysis journals, which include: *AAHA Dialogue, AHAF Journal, Write-Up, The Graphologist* (British Institute of Graphology) as well as journal of handwriting analysis in Switzerland.

RESEARCH:

Participated in a published study on Multiple Personality Disorder, Sperry Lab, Calif. Polytechnic Institute
Presented original research on left-handedness at 1984 AHAF Annual Conference
Presented original research on personal pronoun I at 1990 AHAF Annual Conference
Currently researching criminal behavior and handwriting with law enforcement and mental health professionals

AWARDS & HONOR SOCIETY MEMBERSHIPS:

International Honor Society, Delta Episoln Tau – Gamma of California.
Recipient, AHAF President's Award for *Outstanding Achievement and Accomplishment in the Field of Handwriting,* Tucson, 1991.

EQUIPMENT USED:

Stereo microscope; transmitted light apparatus, Hewlett Packard 7410 scanner and Canon iDE90 scanner, measuring calipers and other measurement tools. Sony Mavica digital camera.

SOME MEDIA APPEARANCES

Television & Radio Interviews

Unsolved Mysteries NBC Network Television (1991)
The Elvis Conspiracy KTLA Television Special (1992)
Jay Thomas Show KPWR Power 106 radio (1992)
KTLA Morning Show (2/94)
Case Closed, USA Network (2/94)
KABC TalkRadio with Tom Hall (2/94, 7/94, 2/95)
Hard Copy, NBC Network Television (O.J. Simpson case, notebook) (7/94, 10/94)
CNN News Network (O.J. Simpson case, notebook) (7/94)
Naked Cafe, VH1, with Paula Cole (12/94)
Hard Copy, CBS Network Television (Susan Smith confession letter) (10/94)
Hard Copy, CBS Network Television (O.J. Simpson case)
Full Disclosure Washington, DC television show (Bill Clinton 1/96)
KABC TalkRadio with Mario Machado (2/96)
ABC Television 11:00 News (Florio-Buntin letter, re: Simpson case 3/96)
NBC Television 5:00 & 6:00 feature story with Paul Moyer(4/96)
KLSX Radio 97.1, Ricky Rackman Show (8/96)
NHK Japan interview with Mark Joseph (10/96)
UPN Strange Universe interview with Stacy Gualandi (10/96)
KFWB radio interview with John McDevitt (10/96)
KABC TalkRadio w/Doug Stephan (11/96)
NBC Rolonda Show interview re profiling of criminals (2/97)
Victoria Jones syndicated radio show (Jon Benet Ramsey) (5/97)
KNBC News w/Diane Diaz (10/98)

KCBS News w/Kyra Phyllips (11/98)
KPFK radio Nita Vallens, Inner Vision (8/99)
Cyberradiotv.com Ginny Harman live Internet show (8/99)
Fox Family Channel - Exploring the Unknown (11/99)
KABC Eyewitness News w/Lora McLaughlin (2/00)
Extra! (4/00)
KABC Eyewitness News - Anthrax letters (10/01)
ESPN, Unscripted with Chris Connelly - interview (11/01, 2/02, 4/02)
ABC (Australia) Radio Life Matters - interview (12/02)
A&E - Between the Lines - interview re handwriting of serial killers (2/04)
KVTA radio 1520, Bob & Dave Show (10/04)
Internet Podcast interview, www.lineofduty.com (1/06)
Good Day Arizona (5/07)

Some print interviews since 1996
L.A. Times, Life & Style, Beverly Beyette (2/96)
Cosmopolitan Magazine (3/96)
Article for The Globe (OJ Simpson Suicide letter, 9/96)
Interview for The Daily News (8/98)
Article for New Woman magazine (10/98)
L.A. Times, Beverly Beyette (Penmanship, 8/99)
Newhall Signal, Norinne De Gal (Book signing, 10/99)
National Enquirer (Jon Benet Ramsey, 10/00)
CLEARS (Law Enforcement magazine, graphology, 10/00)
Mademoiselle magazine (Dating, 12/00)
Woman's Day (for 4/02 issue)
Maxim (5/02?)
Esquire interview (2002)
Country Weekly (May, October, 2002)
Woman's World (Relationships, 10/8/02)
National Enquirer (Ramsey, 10/02)
Richmond Times Dispatch (VA Sniper, 10/23/02)
Teen People (5/03, 8/03, 9/03)
Herald Republic newspaper (IN, 6/11/03)
Ottawa Citizen newspaper (6/03)
Home.Com Russian magazine (Software review 6/03)
Tiger Beat magazine (6/04)
Us Magazine (6/04)
Us Magazine (12/05)
National Geographic for Kids (5/06)
National Enquirer regarding John Mark Karr and Ramsey Ransom Note (8/06)
Plain Dealer newspaper (OH 1/7/06)
National Law Journal (2/07)
Ventura County Star (3/07)
Philadelphia City Newspaper (4/07)
Plain and Simple magazine (5/07)

10B

Nevada State Board of Medical Examiners

April 9, 2012

Maryanne Phillips, M.D.
5052 South Jones, Suite 135
Las Vegas, NV 89118

BME: Compliance Case # 09-10032-1

Dear Dr. Phillips:

This correspondence is to inform you that with your completion of the conditions set forth in the Board's Settlement, Waiver and Consent Agreement dated January 10, 2011, the Investigative Committee of the Nevada State Board of Medical Examiners is satisfied. At this time you are compliant and your Compliance file has been closed.

Thank you for your cooperation on this matter. If you have any further questions or concerns please feel free to contact me.

Sincerely,

Johnna LaRue
Compliance Officer
Nevada State Board of Medical Examiners

☐ LAS VEGAS OFFICE
Board of Medical Examiners
Building A, Suite 2
6010 S. Rainbow Boulevard
Las Vegas, NV 89118
Phone: 702-486-3300
Fax: 702-486-3301

☒ RENO OFFICE
Board of Medical Examiners
Suite 301
1105 Terminal Way
Reno, NV 89502
Phone: 775-688-2559
Fax: 775-688-2321

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In The Matter of Charges and Complaint Against MARYANNE PHILLIPS, M.D. Respondent.	)	Case No. 09-10032-1

FILED
APR - 9 2012
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By: _____

ORDER RELEASING FROM PROBATION

Maryanne Phillips, M.D., having successfully completed all terms of her probation in the above referenced matter is hereby released from probation and her license is returned to active status with no conditions. This order is effective as of April 6, 2012.

IT IS SO ORDERED.

Dated this 9th day of April, 2012.

NEVADA STATE BOARD OF MEDICAL EXAMINERS

_____

Benjamin J. Rodriguez, M.D., President
Nevada State Board of Medical Examiners

September 26, 2013

Credentialing Requested By: MaryAnne Phillips MD

To Whom It May Concern:

Your request for claims history has been received and investigated thoroughly for the insured named below. The following details any claims or suits that have been reported to Medicus Insurance Company for the named insured while covered by our company. Please note that all Medicus Insurance Company policies are written on a claims-made basis.

MEDICUS INSURED:	MaryAnne Phillips MD
POLICY NUMBER:	TX-12045040
POLICY PERIOD:	09/21/2007 - 07/09/2012
RETRO DATE:	09/21/2007
STATUS:	CANCELLED
LIMITS OF LIABILITY:	$1,000,000/3,000,000

Report Date	Status	Type
NO CLAIMS		

Please note that we cannot verify claims information prior to coverage with Medicus Insurance Company, nor can we verify coverage for specific privileges.
This is not a verification of insurance.

Respectfully,

Karissa Hulsey

Karissa Hulsey
Associate Underwriter
Underwriting Department
Medicus Insurance Company
Office: (512) 467-2800
Fax: (877) 686-0558
khulsey@medicusins.com

G. DALLAS HORTON
DAVID L. THOMAS
www.gdallashorton.com

4435 SOUTH EASTERN AVENUE
LAS VEGAS, NEVADA 89119

G. DALLAS HORTON
& ASSOCIATES

ATTORNEYS AT LAW
Exclusively Personal Injury

CHRISTIAN Z. SMITH
J. BAUER HORTON[F]
[F]Also licensed in Texas
[O]Of Counsel

TEL (702) 380-3100
FAX (702) 385-3101

February 17, 2014

Dear Nevada Pharmacy Board:

Since the inception of *Maryanne Phillips, M.D. v. The Medical Board of California*, Case No.: 09-2004-16-1866. I was Lead Insurance Defense Counsel for Nevada Docs Medical Risk Retention Group, Inc. for five (5) years and Defended doctors. While I am not licensed in California, I did refer Mrs. Phillips to a California attorney. His name was David Rosenberg. Also, I involved an expert pain manager, Dr. Jim Marx, who reviewed the entire file. His expert report to the board indicated as my opinion will clearly reveal as well, her care never fell below the standard of care. Never once did she ever misstate or misrepresent a fact throughout the entire course of that case. The only reason this case did not get to go to a hearing is, she had a prior attorney who frankly, provided wholly and inadequate services. He did not respond to the request of the board, did not obtain the handwriting expert that our office did on the forgeries, and did not retain a pain management expert as my office did. This resulted in Dr. Phillips being in a very unique procedural position where she frankly was forced to acquiest to a settlement. It should strongly be noted, had my firm been involved in the inception of her case or Mr. Rosenberg's firm been involved in the inception of this case, it would have more likely than not been dismissed.

It should be noted, by the Pharmacy board that she was in a procedural quagmire with respect to the medical board based on her first attorney. My firm as well as Ms. Ames and Mr. Chase proceeded with our investigation.

Please be advised, Ms. Ames's and Mr. Chase's investigation revealed, the pharmacist that was involved in each of her prescriptions whose name is Sheldon Borrison, had been terminated by Kmart prior to going to work for Sav-On. He was terminated for altering physician prescriptions. The way he altered prescriptions was to over dispense. Ms Ames's in conjunction with Mr. Chase's investigation from United Defense has revealed that this happened to three (3) different doctors by the same pharmacist. Please be advised, my office is considering associating in with Mrs. Ames and Mr. Chase and proceeding against the pharmacy for what he did against this doctor. Before you take any adverse action against her please allow us to do our discovery, so you can be made aware that she is a victim of fraud and forgery. My office would like to proceed with Stephanie Ames out of California in suing the pharmacy on behalf of Dr. Phillips. Mrs. Ames is currently filing a writ in the State of California Superior Court requesting a reversal of the Medical Board's decision and request that they grant her a new hearing based on this new evidence.

Your professional courtesy and attention to this matter is greatly appreciated, should have any questions or concerns, please do not hesitate to contact me at the above describe number.

Very truly yours,

G. DALLAS HORTON & ASSOCIATES

G. DALLAS HORTON, ESQ.

GDH/es

cc: Nevada State Board of Pharmacy Attn-Paul Edwards, General Counsel
(Via U.S. Regular Mail and Facsimile)
431 W. Plumb Lane
Reno, NV 89509
Facsimile: (775) 850-1444

Nevada State Board of Medical Examiners Attn-General Counsel
(Via U.S. Regular Mail and Facsimile
1105 Terminal Way, Suite 301
Reno, NV 89502
Facsimile: (775) 688-2321

11

GORDON SILVER

Kenneth E. Hogan, Esq.
Email: khogan@gordonsilver.com

May 15, 2013

BY FACSIMILE TO: 775-688-2321
and
BY U.S.MAIL TO:

Erin L. Albright, Esq.
Deputy General Counsel
Nevada State Board of Medical Examiners
T: 775-688-2559
F: 775-688-2321
1105 Terminal Way, Suite 301
Reno, NV 89502-2144

Re: Maryanne Phillips, M.D.
Complaint (No. 12-10032-1)

Dear Ms. Albright:

Thank you for your willingness to assist us in resolving the existing Complaint (No. 12-10032-1) against Maryanne Phillips, M.D. ("Dr. Phillips"). Under these circumstances, as explained more fully below, we recommend a private letter of admonishment with no National Data Base reporting.

A. **The New Mexico "revocation" is improper.**

The present Complaint, premised upon a purported revocation of license by the New Mexico Board of Medical Examiners (the "N.M. Board"), is grounded upon an extra-jurisdictional action. The N.M. Board's jurisdictional statement asserts that Respondent is subject to action by the Board pursuant to New Mexico Statutes (N.M. Stat. Ann.) §§ 61-1-1 *et seq*[1] and 61-6-1 *et seq.*[2] See Notice of Contemplated Action (the "Notice", attached hereto as **Exhibit "1."** This statement is false, in that Dr. Phillips had no license, and was not a licensee,

[1] Chapter 61, Article 1, of N.M. Stat. Ann. may be cited as the "Uniform Licensing Act".

[2] Article 6 of Chapter 61 is known as the "Medical Practice Act."

See April 10, 2012 Letter, attached hereto as **Exhibit "5."**

Dr. Phillips, further, was provided with an "Order Releasing from Probation" dated April 9, 2012, effective as of April 6, 2012, releasing her from probation, and entitling her to practice in active status, with no conditions. See Order, attached hereto as **Exhibit "6."**

For these reasons, the November 2012 Complaint is inaccurate, and a probation which does not exist should not be grounds for refusing reasonableness and leniency in this Action.

C. **The Grounds for discipline, in the first place, are highly questionable.**

Given the NV Board's charter to protect the citizenry, it may be tempting to "find a way" to sanction Dr. Phillips given the basis for the original discipline – but the basis even for that discipline is highly questionable. Although accused of overprescribing, the prescriptions on which the discipline was based are clearly not those of Dr. Phillips.

After the fact – meaning after the hearings on the accusations of overprescribing – Dr. Phillips sought out and hired a handwriting expert, at her own expense, to prove her innocence. The unequivocal report of Sheila Lowe, along with her impressive Curriculm Vitae, are attached hereto as **Exhibit "7."** It is plainly clear to Ms. Lowe (and candidly, to any layman comparing the questioned prescriptions with Dr. Phillips' own prescriptions) that Dr. Phillips had not written the prescriptions that gave rise to her prior disciplinary hearings and sanctions. Without that evidence at the time of the hearings, she had little choice but to accept reprimand. Here, she *does have* the evidence, and it should be clear to the NV Board that this physician has already been "put through the wringer" on a series of highly questionable charges.

D. **Summary.**

We believe there is no reasonable basis on which to impose additional sanctions under the foregoing circumstances. Still, at the same time, Dr. Phillips admits and regrets that her steadfast focus on the practice of medicine combined with her limited resources to hire counsel and handwriting experts at the time of the original accusations to create a resulting failure to follow-through with challenging the actions of the California and N.M. Board that have culminated in the NV Board's existing concerns.[3] For that failure alone, she might be cautioned.

---

[3] Dr. Phillips has hired counsel in California to revisit the California sanction and agreement, and has now hired counsel in Nevada to diligently resolve its instant Complaint. Whether it would

Even so, the Board's existing concerns should give rise to no sanction other than for Dr. Phillips' failure to follow-through and diligently pursue remedy with N.M., and before that, California. Although we respect the NV Board's charter, we contend that the evidence indicates that Dr. Phillips poses no danger to our citizenry – she just let things go too far, too fast, to recover, and was confused by later Notices from a jurisdiction she longer held a license in, and probational releases from the State of Nevada.

As previously stated, we believe that *if anything*, a private reprimand with no national reporting might appropriate for an administrative caution under these circumstances. We look forward to discussing this matter further at your convenience.

Sincerely,

GORDON SILVER

KENNETH E. HOGAN, ESQ.

KEH/rlc
Attachments

be necessary for her to additionally strain her resources to hire counsel in New Mexico, and seek to expunge the revocation under N.M. Stat. Ann. § 61-1-21, is presently under advisement.

ALVERSON, TAYLOR,

MORTENSEN & SANDERS

J. BRUCE ALVERSON
ERIC TAYLOR
DAVID J. MORTENSEN
LEANN SANDERS
KURT R. BONDS
NATHAN R. REINMILLER
JONATHAN B. OWENS
KARIE N. WILSON
SEETAL TEJURA
SHERLEY BLAZICH

JENNIFER KISSEL-MORALES

NATHAN D. SEVERSON
JASMIN L. DODSON
SABRINA G. MANSANAS
CHELSEA R. HUETH
ANDREA THORSTEINSSON
KIRSTEN S. GRISWOLD
ANDRES CAMACHO
MARI K. SCHAAN
MELISSA A. BILLARD
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LAWYERS

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JUSTIN S. GOURLEY
MARLA J. DAVEE

JASON P. WEILAND
ERIC N. TRAN
ADRIANA PEREYRA
JAKE R. SPENCER

OF COUNSEL
JACK C. CHERRY

REPLY TO: X Las Vegas Office __Reno Office

July 1, 2011

Via U.S. Mail

Don Andreas
Board of Medical Examiners
Building A, Suite 2
6010 S. Rainbow Boulevard
Las Vegas, NV 89118

Re: BME Case #: 11-13041
Patients: David and Lisa Cohen
Our Client #: 19061

THIS CORRESPONDENCE CONTAINS CONFIDENTIAL INFORMATION. THE CONTENTS CONTAINED HEREIN ARE TO BE READ ONLY BY DON ANDREAS, THE INTENDED RECEIPIENT

Dear Mr. Andreas:

Dr. Maryanne Phillips is in receipt of your letter dated June 1, 2011. The letter references four (4) areas of concern for the Nevada State Board of Medical Examiners regarding information received from David and Lisa Cohen, respectively, who were presented to Dr. Phillips on or around August 11, 2010 for pain management. Our client vehemently disagrees with the contentions as discussed in turn below.

WRITING OF PRESCRIPTIONS WITHOUT ANY MEDICAL TESTING

The letter alleges that Dr. Phillips engaged in the act of writing large amounts of controlled substances without conducting any medical testing. This is untrue. Dr. Phillips performed an IV push treatment on both David and Lisa Cohen, respectively, that helped to indicate the amount and location of the pain. She also performed a full physical exam on both patients as well as consulted both of the patients' previous medical history with Dr. Chen.

According to David Cohen's medical records, Dr. Phillips documented that the patient had an active problem of lumbar or lumbaracral intervettedbal disc. Dr. Chen's records showed MRI results that were positive for lumbar disk disease which can be the cause of a significant amount of pain. She wrote the same prescription amount as previously given by Dr. Chen with the plan to decrease the amounts over time.

Dr. Phillips also documented the medical problems/complaints of Lisa Cohen. As detailed in her medical file, she was suffering from enthesopathy of the hip region and degeneration of lumbar or lumbasacral intevertebral disc. She was on a "short acting" drug which is standard protocol for this type of injury. She continued the same amount of pain medication previously prescribed by Dr. Chen after reviewing her medical history and performing her own medical diagnosis.

The June 1st letter states that Dr. Phillips did not follow the Model Policy for the use of Controlled Substances for the treatment of pain issued by the Federation of State Medical Boards. The stated violation was her alleged failure to perform medical testing before issuing prescribed amount of controlled substance. The medical records of both David and Lisa Cohen indicate that an extensive medical exam was given and documented. Dr. Phillips also used the medical exam performed by Dr. Chen and the MRI from Dr. Chen to make a professional decision on the amounts of controlled substances that needed to be prescribed and to design a plan for future treatment.

Dr. Phillips documented all of her findings and diagnosis in the patients' respective files. It is our understanding that at the time you took possession of the files you made copies of all the documents. For that purpose, a reproduction of the entire file is not included with this correspondence at this time. To the best of Dr. Phillips' knowledge, that file contained all the documents and relevant material concerning David Cohen. However, a small amount of documents concerning Lisa Cohen were not present in her file at the time. The documents contain information from past physicians that was in loss filing at the time the files were taken and copied. We have produced those documents here for you convenience. If the file copies are not available to you, please contact us so that copies may be made and sent to your office.

<u>BILLING FOR PROCEDURES NEVER CONDUCTED</u>

Our client acknowledges that there was a mistake as to the treatment billed. This was a clerical error and Dr. Phillips and her office are investigating the problem internally. A fax was sent from Dr. Nagy's office to CHN billing on October 4, 2010 indicating that there had been a mistake in the billing statement regarding the Cohens. Our client's medical practice is managed by a neuro-surgeon which can, on rare occasion, result in bill-coding mistakes. This distinction of the practices and terminology may have been confused. This mistake was certainly not intentional and the matter will be remedied accordingly. If the clients disagree with the billing statements they are free to contact Dr. Phillip's billing company located in Burbank, CA as well.

BILLED AMOUNT FOR OFFICE VISIT EXCESSIVE

The amount of $650.00 per visit is a competitive price for pain management treatment in the Las Vegas, NV area.

CHANGE OF ADDRESS

Dr. Phillips current address is 1408 S. Decatur Blvd. Las Vegas, NV 89102. The letter states that the NV State Board of Medical Examiners did not receive an address change. However, the address where the June 1, 2011 letter was sent is her current and correct business address. Dr. Phillips stated that she did change her office location during David and Lisa Cohen treatment but left a notification on the door of her previous 7835 S. Rainbow Blvd. office notifying clients that she had relocated to the 1408 S. Decatur Blvd. office. The notification indicated the time of operation and the phone number to the new office. Dr. Phillip's assistant also attempted to contact the Cohen's leaving a message that she had changed location of her practice. After such advances, the Cohens were seen at the new location on two (2) separate occasions once in January and again in February of 2011. Also, the last prescriptions that were issued and filled by both Dave and Lisa Cohen indicated the new address on the top of the prescription. The fact that the Cohens state they were abandoned in their medical treatment is factually untrue.

Additionally, during this time Dr. Phillips was complying with an order from the Pharmacy Board. She was told to apply for a new DEA number and controlled substance number because a number of her scripts were stolen. She was without a DEA number for six (6) weeks. Dr. Phillips referred each of her clients to other doctors in the area by leaving contact information for other doctors on the door of her Rainbow office or by contacting each client by telephone. The Cohens were contacted by telephone. A message was left for them explaining the circumstance and referenced possible doctors in the area. Dr. Phillips adequately attempted to notify them of her pending situation and possible solutions to the problem.

Dr. Phillips splits time at both the S. Decatur office and the S. Rainbow office. She currently sees clients at the 1408 S. Decatur Blvd office Monday through Thursday and the 7835 S. Rainbow Blvd. office on Fridays only. A change of address form is provide for your convenience.

Should you have any question or concerns regarding this letter, please do not hesitate to contact our office.

Very truly yours,

ALVERSON, TAYLOR,
MORTENSEN & SANDERS

Alan V. Mulliner, Esq.

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DAVID L. THOMAS
www.gdallashorton.com

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G. DALLAS HORTON
& ASSOCIATES

ATTORNEYS AT LAW
Exclusively Personal Injury

CHRISTIAN Z. SMITH
J. BAUER HORTON[F]
[F]Also Licensed in Texas
Of Counsel

TEL (702) 380-3100
FAX (702) 385-3101

February 17, 2014

Dear Nevada Pharmacy Board:

Since the inception of *Maryanne Phillips, M.D. v. The Medical Board of California*, Case No.: 09-2004-16-1866. I was Lead Insurance Defense Counsel for Nevada Docs Medical Risk Retention Group, Inc. for five (5) years and Defended doctors. While I am not licensed in California, I did refer Mrs. Phillips to a California attorney. His name was David Rosenberg. Also, I involved an expert pain manager, Dr. Jim Marx, who reviewed the entire file. His expert report to the board indicated as my opinion will clearly reveal as well, her care never fell below the standard of care. Never once did she ever misstate or misrepresent a fact throughout the entire course of that case. The only reason this case did not get to go to a hearing is, she had a prior attorney who frankly, provided wholly and inadequate services. He did not respond to the request of the board, did not obtain the handwriting expert that our office did on the forgeries, and did not retain a pain management expert as my office did. This resulted in Dr. Phillips being in a very unique procedural position where she frankly was forced to acquiest to a settlement. It should strongly be noted, had my firm been involved in the inception of her case or Mr. Rosenberg's firm been involved in the inception of this case, it would have more likely than not been dismissed.

It should be noted, by the Pharmacy board that she was in a procedural quagmire with respect to the medical board based on her first attorney. My firm as well as Ms. Ames and Mr. Chase proceeded with our investigation.

Please be advised, Ms. Ames's and Mr. Chase's investigation revealed, the pharmacist that was involved in each of her prescriptions whose name is Sheldon Borrison, had been terminated by Kmart prior to going to work for Sav-On. He was terminated for altering physician prescriptions. The way he altered prescriptions was to over dispense. Ms Ames's in conjunction with Mr. Chase's investigation from United Defense has revealed that this happened to three (3) different doctors by the same pharmacist. Please be advised, my office is considering associating in with Mrs. Ames and Mr. Chase and proceeding against the pharmacy for what he did against this doctor. Before you take any adverse action against her please allow us to do our discovery, so you can be made aware that she is a victim of fraud and forgery. My office would like to proceed with Stephanie Ames out of California in suing the pharmacy on behalf of Dr. Phillips. Mrs. Ames is currently filing a writ in the State of California Superior Court requesting a reversal of the Medical Board's decision and request that they grant her a new hearing based on this new evidence.

Your professional courtesy and attention to this matter is greatly appreciated, should have any questions or concerns, please do not hesitate to contact me at the above describe number.

Very truly yours,

G. DALLAS HORTON & ASSOCIATES

G. DALLAS HORTON, ESQ.

GDH/cs

cc: Nevada State Board of Pharmacy Attn-Paul Edwards, General Counsel
(Via U.S. Regular Mail and Facsimile)
431 W. Plumb Lane
Reno, NV 89509
Facsimile: (775) 850-1444

Nevada State Board of Medical Examiners Attn-General Counsel
(Via U.S. Regular Mail and Facsimile
1105 Terminal Way, Suite 301
Reno, NV 89502
Facsimile: (775) 688-2321

13

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARYANNE PHILLIPS,
Appellant,
vs.
NEVADA STATE BOARD OF PHARMACY,
Respondent.

No. 67538

SETTLEMENT AGREEMENT

NOTE: IT IS *NOT* NECESSARY TO FILE THE SETTLEMENT AGREEMENT WITH THE SUPREME COURT See NRAP16(e)(4)

The parties have agreed to settle this matter on the following terms and conditions:

Pursuant to the attached settlement agreement dated May 27, 2015

DATED this 27 day of May, 2015.

COUNSEL FOR APPELLANT(S)

COUNSEL FOR RESPONDENT(S)

(1) NMBd probation ends (June)

(2) NMBd present claims dismissed/resolved

(3) Appellant files Ph B reapplication with order re #2

(4) Ph B requires appearance on reap. hearing

(5) Ph B gen' counsel recommends approval, Exec Secretary states support

(6) Ph B provides reporting to DEA

Ipg dismiss appeal

↳ immediately of learning for anesthesiology, with understanding that Dr P, will not practice pain management/or prescribe outpatient controlled substance

Marjanne Phillips

Kenneth E. Hogan, Esq

S. Pat Edwards Esq

Harry L. Pierce
Exec. Secretary of Nv State Bd of Pharmacy

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARYANNE PHILLIPS,
Appellant,
vs.
NEVADA STATE BOARD OF PHARMACY,
Respondent.

No. 67538

FILED

JUN 02 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER DISMISSING APPEAL

Pursuant to the settlement conference, the stipulation of the parties and cause appearing, this appeal is dismissed. The parties shall bear their own costs and attorney fees. NRAP 42(b).

It is so ORDERED.

CLERK OF THE SUPREME COURT
TRACIE K. LINDEMAN

BY: Harriet

cc: Hon. James Todd Russell, District Judge
David Wasick, Settlement Judge
Iglody Hulet Hogan
S. Paul Edwards
Carson City Clerk

15-16800

Nevada

Appellate Courts

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Only filed documents can be viewed. Some documents received in a case may not be available for viewing.
Some documents originating from a lower court, including records and appendices, may not be available for viewing.
For official records, please contact the Clerk of the Supreme Court of Nevada at (775) 684-1600.

Case Information: 67538

Short Caption:	PHILLIPS VS. NEV. STATE BD. OF PHARMACY	**Court:**	Supreme Court
		Related Case(s):	65958
Lower Court Case(s):	Carson City - First Judicial District - 14OC000641B	**Classification:**	Civil Appeal - General - Other
Disqualifications:		**Case Status:**	Disposition Filed/Case Closed
Replacement:		**Panel Assigned:**	Panel
To SP/Judge:	04/01/2015 : Wasick, David	**SP Status:**	Completed
Oral Argument:		**Oral Argument Location:**	
Submission Date:		**How Submitted:**	

+ Party Information

Docket Entries

Date	Type	Description	Pending?	Document
03/11/2015	Filing Fee	Filing Fee due for Appeal. Filing fee will be forwarded by the District Court.		
03/11/2015	Notice of Appeal Documents	Filed Notice of Appeal/Proper Person Pilot Program. Filed certified copy of proper person notice of appeal. (Pilot program civil appeals order and documents mailed to proper person appellant.)		15-07574
03/11/2015	Filing Fee	Filing Fee Paid. $250.00 from Maryanne Phillips. Check No. 236		
03/16/2015	Notice/Incoming			15-07985

		Filed Notice of Appearance (S. Paul Edwards as counsel for the Respondent).	
03/24/2015	Notice/Incoming	Filed Notice of Appearance (Kenneth E. Hogan as counsel for the Appellant).	15-08965
03/26/2015	Transcript Request	Filed Certificate of No Transcript Request.	15-09267
03/31/2015	Order/Procedural	Filed Order Referring Appeal to Settlement Program. We remove this appeal from the pilot program for processing pro se civil appeals. Docketing Statement due: 15 days. (Docketing Statement mailed to counsel for appellant.)	15-09685
04/01/2015	Settlement Notice	Issued Notice: Assignment to Settlement Program. Issued Assignment Notice to NRAP 16 Settlement Program. Settlement Judge: Dave Wasick.	15-09808
04/03/2015	Notice of Appeal Documents	Filed Copy of District Court Docket Entries	15-10164
04/16/2015	Docketing Statement	Filed Docketing Statement Civil Appeals.	15-11477
04/17/2015	Notice/Outgoing	Issued Notice to Provide Proof of Service on Settlement Judge.	15-11604
04/27/2015	Settlement Program Report	Filed ECAR/Appropriate for Settlement Program. This case is appropriate for mediation and a settlement conference is scheduled for May 27, 2015 at 9:30 a.m.	15-12766
05/20/2015	Notice/Incoming	Filed Certificate of Service (Docketing Statement on Settlement Judge).	15-15568
05/27/2015	Settlement Program Report	Filed Final Report/Settlement The parties have agreed to a settlement of this matter.	15-16143
05/27/2015	Settlement Program Motion/Stipulation	Filed Settlement Program/Stipulated Dismissal Each party to bear their own costs and attorney fees.	15-16146
06/02/2015	Settlement Order/Dispositional	Filed Order Dismissing Appeal/Stipulation/Settlement Pursuant to the settlement conference, the stipulation of the parties and cause appearing, "this appeal is dismissed." The parties shall bear their own costs and attorney fees. NRAP 42(b) Case Closed/No Remittitur Issued.	15-16800

Combined Case View

CAP MPT

COOPERATIVE OF
AMERICAN PHYSICIANS, INC
MUTUAL PROTECTION TRUST

CERTIFICATE OF COVERAGE AND CLAIMS HISTORY

This is to certify that the person named below, through his or her membership in the Mutual Protection Trust, has professional liability coverage for claims of medical negligence.

- Physician: Mary Anne Phillips, M.D.
- Membership Number: 15828
- Coverage through: 12/31/2006*
- Basic Date of Coverage: 1/24/2006
- Retroactive Coverage Date: None
- Limits of Coverage: $ 1 Million Per Occurrence/ $ 3 Million Aggregate
- Medical Specialty: Anesthesiology
- Sub-Specialty: None
- Claims Reported: No Claims Reported

* Coverage through is subject to the Member meeting financial obligations and other requirements of the MPT Agreement.

MPT undertakes no obligation to advise any party, other than the named Member, of any changes or termination of professional liability protection.

The Mutual Protection Trust is an unincorporated interindemnity arrangement organized under Section 1280.7 of the California Insurance Code.

Membership Services Department

MBR/MEM

December 23, 2015

Credentialing Requested by: Maryanne Phillips, MD

To Whom It May Concern:

Your request for claims history has been received and investigated thoroughly for the Insured named below. The following details any claims or suits that have been reported to Medicus Insurance Company for the named Insured while covered by our company. Please note that all Medicus Insurance Company policies are written on a Claims Made basis.

MEDICUS INSURED:	Maryanne Phillips, MD
POLICY NUMBER:	NV130000553.001-2
POLICY PERIOD:	09/21/2007 - 07/09/2012
RETRO DATE:	09/21/2007
STATUS:	CANCELLED
LIMITS OF LIABILITY:	$1,000,000/$3,000,000

Report Date	Status	Type
NO CLAIMS		

Please note that we cannot verify claims information prior to coverage with Medicus Insurance Company, nor can we verify coverage for specific privileges.

This is not a verification of insurance.

Respectfully,
John Camota
Client Services Representative
Medicus Insurance Company
(Main) 512-467-2800
(Fax) 877-686-0558
jcamota@norcal-group.com

1.3D

LV194756

ORIGINAL

BEFORE THE BOARD OF MEDICAL EXAMINERS

OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against MARYANNE D. PHILLIPS, M.D., Respondent.	Case Nos.: 12-10032-1 & 14-10032-1

FILED

SEP 09 2016

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

SETTLEMENT AGREEMENT

The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board) and Maryanne D. Phillips, M.D. (Respondent), a licensed physician in Nevada, represented by John A. Hunt, Esq. of the law firm Morris Polich & Purdy, LLP, hereby enter into this Settlement Agreement (Agreement) based on the following:[1]

A. Background

1. Respondent is a physician licensed by the Board, pursuant to Chapter 630 of the Nevada Revised Statutes (NRS) and Chapter 630 of the Nevada Administrative Code (NAC) (collectively, the Medical Practice Act), to practice medicine in Nevada since 1995 (License No. 7635).

2. On November 5, 2012, in Case No. 12-10032-1, the IC filed a formal Complaint (Complaint – No. 12-10032-1) charging Respondent with violations of the Medical Practice Act. Specifically, Complaint - No. 12-10032-1 alleges three counts. Count 1 alleges a violation of

[1] All agreements and admissions made by Respondent are solely for final disposition of this matter and any subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, Respondent's agreements and admissions are not intended or made for any other use, such as in the context of another state or federal government regulatory agency proceeding, state or federal civil or criminal proceeding, any state or federal court proceeding, or any credentialing or privileges matter.

NRS 630.301(3), disciplinary action taken by another state. Count II alleges a violation of NRS 630.306(11), failure to report in writing, within 30 days, any disciplinary action taken against the licensee by another state. Count III alleges a violation of NRS 630.306(2)(a), engaging in any conduct that is intended to deceive.

3. For purposes of this Agreement, Respondent and the IC further stipulate and agree that that the IC represented it was intending to amend Complaint - No. 12-10032-1to include additional counts regarding allegations that Respondent failed to report to the Board that the Medical Board of California had taken disciplinary action against Respondent and failed to report to the Board that the Nevada State Board of Pharmacy (BOP) had taken disciplinary action against Respondent. The IC also represented that it was going to amend Complaint - No. 12-10032-1to include additional counts regarding the disciplinary action taken by The Medical Board of California against Respondent and the disciplinary action taken by the BOP against Respondent. Accordingly, this Agreement addresses, resolves, and takes into consideration any and all claims/counts the Board or IC may have brought against Respondent relative to said matters, including but not necessarily limited to, any count alleging a violation of NRS 630.301(3), disciplinary action taken by another state, any count alleging a violation of NRS 630.306(11), failure to report in writing, within 30 days, any disciplinary action taken against the licensee by another state, or any count alleging a violation of NRS 630.306(2)(a), engaging in any conduct that is intended to deceive. Accordingly, Respondent and the IC agree that any and all allegations or claims regarding Respondent allegedly failing to report to the Board that the Medical Board of California and the BOP had taken disciplinary action against Respondent are hereby waived and/or released by the IC and/or the Board. Again, for ease of reference, reference to "Complaint – No. 12-10032-1" shall also include the matters addressed in this paragraph.

4. On April 22, 2014, in Case No. - 14-10032-1, the IC filed a formal Complaint (Complaint – No. 14-10032-1) charging Respondent with violations of the Medical Practice Act. Complaint - No. 14-10032-1alleges three counts. Count I alleges one violation of NRS 630.3062(1), failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient. Count II alleges one violation of NRS 630.301(4), malpractice as defined by NAC 630.040. Count III alleges one violation of NRS 630.306(2)(b), engaging in any

conduct that the Board has determined is a violation of the standards of practice established by regulation of the Board.

5. Respondent was properly served with a copy of Complaint - No. 12-10032-1and with a copy of Complaint – No. 14-10032-1, and has reviewed both Complaints, understands both Complaints, and has had the opportunity to consult with competent counsel concerning the nature and significance of the Complaints.

6. Respondent is hereby advised of her rights regarding this administrative matter, and of her opportunity to defend against the allegations in Complaint - No. 12-10032-1and in Complaint – No. 14-10032-1. Specifically, Respondent has certain rights in this administrative matter as set out by the United States Constitution, the Nevada Constitution, the Medical Practice Act, and the Nevada Administrative Procedure Act (APA), which is contained in NRS Chapter 233B. These rights include the right to a formal hearing on the allegations in Complaint - No. 12-10032-1and in Complaint – No. 14-10032-1, the right to representation by counsel, at her own expense, in the preparation and presentation of her defense, the right to confront and cross-examine the witnesses and evidence against her, the right to written findings of fact, conclusions of law, and order reflecting the final decision of the Board, and the right to judicial review of the Board's order, if the decision is adverse to her.

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

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

B. Terms & Conditions

NOW, THEREFORE, in order to resolve the matters addressed herein (i.e., the matters with regards to Complaint - No. 12-10032-1and Complaint – No. 14-10032-1), Respondent and the IC hereby agree to the following terms and conditions:

1. **Jurisdiction**. Respondent is, and at all times relevant to Complaint - No. 12-10032-1and Complaint - No. 14-10032-1has been, a physician licensed to practice medicine in Nevada subject to the jurisdiction of the Board as set forth in the Medical Practice Act.

2. **Representation by Counsel/Knowing, Willing, and Intelligent Agreement**. Respondent understands that she may retain and consult counsel prior to entering into this Agreement at her own expense. Respondent acknowledges she is represented by counsel, John A. Hunt, Esq. of the law firm Morris Polich & Purdy, LLP, and wishes to resolve the matters addressed herein with counsel. Respondent agrees that if representation by counsel in this matter materially changes prior to entering into this Agreement and for the duration of this Agreement, that counsel for the IC will be timely notified of the material change. Respondent agrees that she knowingly, willingly, and intelligently enters into this Agreement after full consultation with and upon the advice of her counsel.

3. **Waiver of Rights**. In connection with this Agreement, and the associated terms and conditions, Respondent knowingly, willingly, and intelligently waives all rights in connection with this administrative matter. Respondent hereby knowingly, willingly, and intelligently waives all rights arising under the United States Constitution, the Nevada Constitution, the Medical Practice Act, the APA, and any other legal rights that may be available to her or that may apply to her in connection with the administrative proceedings resulting from Complaint - No. 12-10032-1and Complaint - No. 14-10032-1filed in this matter, including defense of the Complaints, adjudication of the allegations set forth in the Complaints (in addition, as more fully addressed above, this also includes any anticipated amendments to Complaint 12-10032-1), and imposition of any disciplinary actions or sanctions ordered by the Board. Respondent agrees to settle and resolve the allegations of Complaint - No. 12-10032-1and Complaint - No. 14-10032-1as set out by this Agreement without a hearing or any further proceedings, and without the right to judicial

review.

4. **Acknowledgement of Reasonable Basis to Proceed**. Respondent acknowledges that the IC believes it has a reasonable basis to allege that Respondent engaged in conduct that is grounds for discipline pursuant to the Medical Practice Act. The Board acknowledges Respondent is not admitting that the Board's claims/counts as alleged in the Complaints have merit and Respondent is agreeing to resolve this matter to avoid the costs of hearing and potential subsequent litigation. Respondent asserts if this matter were to proceed to hearing, she has evidence, witnesses, expert witness(es), and defenses to the counts/claims alleged in Complaint - No. 12-10032-1and Complaint – No. 14-10032-1, but for the purposes of resolving the matter and for no other purpose, Respondent waives the presentation of evidence, witnesses, expert witnesses, and defenses in order to effectuate this Agreement.

5. **Consent to Entry of Order**. In order to resolve Complaint - No. 12-10032-1 and Complaint - No. 14-10032-1pending against Respondent without incurring any further costs or the expense associated with a hearing, Respondent hereby agrees that the Board may issue an order finding that Respondent engaged in conduct that is grounds for discipline pursuant to the Medical Practice Act, to wit: one count of disciplinary action taken by another state, a violation of NRS 630.301(3), as outlined in Count I of Complaint No. - 12-10032-1 and one count of malpractice, a violation of NRS 630.301(4), as outlined in Count II of Complaint - No. 14-10032-1. Accordingly, the following terms and conditions are hereby agreed upon:

A. Respondent agrees to allow her license to practice medicine in the state of Nevada to be placed on probation for a period of 36 months from the date of the Board's acceptance, adoption and approval of this Agreement (probationary period). The following terms and conditions shall apply during Respondent's probationary period:

1. During the probationary period, Respondent shall not prescribe any Class II - IV medications. If Respondent obtains a medical license coupled with the authority to prescribe Class II - IV medications in another jurisdiction, the Board will not object to Respondent prescribing Class II - IV medications in the jurisdiction in which Respondent obtained a medical license coupled with the

authority to prescribe Class II – IV medications. However, if Respondent prescribes any Class II – IV medications in another jurisdiction to any patient from Nevada, the IC shall be authorized to immediately summarily suspend Respondent's license to practice medicine in Nevada.

2. During the probationary period, Respondent shall not administer drugs to patients except those that are necessary to perform her duties as an anesthesiologist. Accordingly, Respondent shall be able to administer drugs to patients to perform her duties as an anesthesiologist. The only drugs Respondent shall be able to administer to patients to perform her duties as an anesthesiologist are outlined in Exhibit "1." The IC shall monitor Respondent's administration of said drugs through reasonable random audits of her profile with the Nevada State Board of Pharmacy's Prescription Monitoring Program and/or random audits of her patient medical charts. If Respondent administers any drugs outlined in Exhibit "1" to patients, Respondent shall be able to provide documentary proof upon request from a Board investigator that said drugs were administered solely to perform her duties as an anesthesiologist.

3. During the probationary period, Respondent agrees the Board shall have unfettered access to Respondent's medical records and agrees they may be inspected randomly and without prior notice by investigators of the Board during the probationary period, to ensure that Respondent's subsequent practice and record-keeping protocols are consistent with Nevada statutes and regulations.

4. During the probationary period, Respondent will be responsible for the costs involved in the ongoing administrative oversight relative to the probationary period and shall reimburse the Board within 30 days of a written request for reimbursement of the same.

5. During the probationary period, Respondent shall not engage, in any manner, in the practice of pain management.

6. During the probationary period, Respondent shall not be employed in any manner with a pain management clinic/practice.

7. During the probationary period, Respondent shall not have any business interest/ownership in any pain management clinic/practice.

8. During the probationary period, Respondent shall not work at any location where pain management is practiced.

9. During the probationary period, Respondent shall not supervise any physician assistants.

10. During the probationary period, Respondent shall provide the Board with the physical address of each location of employment. If an address of employment changes, Respondent shall notify the Board in writing of the new physical address within five business days of the change.

11. During the probationary period, Respondent shall comply with all laws related to the practice of allopathic medicine, whether state or federal, whether statutory or regulatory, and whether contained in NRS and NAC chapters 629, 630, 453, 454, 585 and 639.

12. Respondent shall allow Board investigators to enter each location where Respondent is practicing medicine at any time during each practice location's normal operating hours, including any room or area therein, to inspect the practice and review any or all of her patient and practice records.

B. Respondent may petition the Board before the probationary period has expired to request that the terms of this Agreement be modified or that the probationary period be terminated before the 36-month probationary period referenced above expires.

C. With regards to Complaint - No. 12-10032-1, Respondent shall pay a fine of five hundred and xx/100 dollars ($500.00) for Count I within 30 days of the Board's acceptance, adoption and approval of this Agreement.

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D. With regards to Complaint – No. 14-10032-1, Respondent shall pay a fine of five hundred and xx/100 dollars ($500.00) for Count II within 30 days of the Board's acceptance, adoption and approval of this Agreement.

E. With regards to Counts II and III of Complaint - No. 12-10032-1and Counts I and III of Complaint No. - 14-0032-1, the same shall be dismissed.

F. Respondent will pay the costs and expenses incurred in the investigation and prosecution of the above-referenced matters within 30 days of the Board's acceptance, adoption and approval of this Agreement (i.e., Complaint - No. 12-10032-1 and Complaint – No. 14-10032-1), the current amounts being $4,567.42 for Complaint - No. 12-10032-1 and $4,360.36 for Complaint – No. 14-10032-1, not including any costs that may be necessary to finalize this Agreement.

G. Respondent shall be issued a public letter of reprimand.

H. Respondent shall take six hours of continuing medical education (CME) related to anesthesiology within 12 months from the date of the Board's acceptance, adoption and approval of this Agreement. The aforementioned hours of CME shall be in addition to any CME requirements that are regularly imposed upon Respondent as a condition of licensure in the state of Nevada and shall be approved by the Board prior to their completion.

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

6. **Release From Liability**. In execution of this Agreement, Respondent understands and agrees that the state of Nevada, the Board, and each of its members, staff, counsel, investigators, experts, peer reviewers, committees, panels, hearing officers, consultants, and agents are immune from civil liability for any decision or action taken in good faith in response to information acquired by the Board. NRS 630.364(2). Respondent agrees to release the state of Nevada, the Board, and each of its members, staff, counsel, investigators, experts, peer reviewers, committees, panels, hearing officers, consultants, and agents from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims and demands whatsoever, known and unknown, in law or equity, that Respondent ever had, now has, may have or claim to have, against

any or all of the persons, government agencies, or entities named in this paragraph arising out of, or by reason of, this investigation, this Agreement, or the administration of the cases referenced herein.

7. **Procedure for Adoption of Agreement**. The IC and counsel for the IC shall recommend approval and adoption of the terms and conditions of this Agreement by the Board in resolution of Complaint - No. 12-10032-1and Complaint – No. 14-10032-1. In the course of seeking Board acceptance, approval, and adoption of this Agreement, counsel for the IC may communicate directly with the Board staff and the adjudicating members of the Board.

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

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

9. **Effect of Rejection of Agreement by Board**. In the event the Board does not accept, approve, and adopt this Agreement, this Agreement shall be null, void, and of no force and effect except as to the following agreement regarding adjudications: (1) Respondent agrees that, notwithstanding rejection of this Agreement by the Board, nothing contained in this Agreement and nothing that occurs pursuant to efforts of the IC to seek the Board's acceptance of this Agreement shall disqualify any member of the adjudicating panel of the Board from considering Complaint - No. 12-10032-1and Complaint - No. 14-10032-1and from participating in disciplinary proceedings against Respondent, including adjudication of the cases; and (2) Respondent further agrees that she shall not seek to disqualify any such member absent evidence of bad faith.

10. **Binding Effect**. If approved by the Board, Respondent understands that this

Agreement is a binding and enforceable contract upon Respondent and the Board.

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

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

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

Dated this 8 day of March, 2016.

By: _____
Robert Kilroy, Esq.
Attorney for the Investigative Committee

Dated this 8 day of Mar, 2016.

By: _____
John A. Hunt, Esq.
Attorney for Respondent

UNDERSTOOD AND AGREED:

_____
MARYANNE D. PHILLIPS, M.D., Respondent
Dated this 8 day of Mar, 2016.

IT IS HEREBY ORDERED that the foregoing Settlement Agreement is approved and accepted by the Nevada State Board of Medical Examiners on the 9th day of September 2016, with the final total amount of costs due of $8,927.78.

Michael J. Eischer, M.D., President
NEVADA STATE BOARD OF MEDICAL EXAMINERS

EXHIBIT

1

EXHIBIT

1

acetaminophen	heparin	nitroprusside 50 mg injection
ademosine	heparin sodium	norepinephrine
Adenosine 3 mg/ml 2 ml vial	hetastach 6% 500 ml drip	ocular lubricant
albuterol	hydralazine	ondansetron
albuterol hfa	hydralazine hcl	opthalmic lubricant
alfentanil	hydrocortisone 100mg/2mL	peinephrine PFS
alfentanyl	hydrocortisone 250mg/2mL	phenylephrine 100mcg/1mL
aminocaproic acid	hydrocortisone pf	phenylephrine 10mcg/1mL
amiodarone	hydromorphone	phenylephrine hcl
atracurium	iopamidol	physostigmine
atropine	ketamine	promethazine hcl
atropine sulfate	ketorolac	propofol 10mg/1mL
benzocaine/tetracaine topical	ketorolac tromethamine	propofol 200mg/20mL
bivalirudin	labetalol 5 mg/ml 4ml syringe	propofol/benzyl
bupivacaine 0.25% epi 1:200K	lidocaine 1% epi 1:100,000	propranolol
buplvacaine	lidocaine 1% MPF	protamine 10mg/1mL
calcium chloride	lidocaine 1% pf	protamine 50mg/5mL
calcium chloride 10%	lidocaine 2%	protamine sulfate
cefazolin	lidocaine 2% 100mg/5mL	rocuronium
cefazolin sodium	lidocaine 2% 20 mg/ml 5ml sdv	sodium bicarbonate
cefoxitin	lidocaine 2% 5 ml jelly	sodium chloride
dexamethasone 10mg/1mL	lidocaine 2% MPF	sodium chloride 10%
dexamethasone 4mg/1mL	lidocaine 2% topical	sterile water
dexamethasone na phosphate	lidocaine 5% topical	succinylcholine
dextrose	lidocaine hcl 2%	succinylcholine chloride
dextrose 50% 50 ml syringe	lta kit 4% 4 ml top soln	sufentanil
digoxin	meperidine	sufentanil citrate
diltiazem	methpredinsolone sodium succ	triamcinolone
diphenhydramine	methyiprednisole sod succ	vasopressin
diphenhydramine hcl	methylprednisolone NA succ	vecuronium
dobutamine	metoclopramide	verapamil
doxapram	metoprolol	water for injection, fliptop
edrophonium/atropine	midazolam	
ephedrine 50mg/1mL	midazolam 2 mg/2mL	
ephedrine 5mg/1mL	midazolam 5mg/5mL	
ephedrine sulfate	milrinone 20mg/100mL	
epinephrine	milrinone 20mg/20mL	
epinephrine 10 ml bristojet	milrinone lactate iv	
esmolol	morphine	
esmolol hcl	morphine 10mg/1mL	
etomidate	morphine PF 10mg/10mL	
famotidine	naloxone	
fentanyl	naloxone 0.4 mg/1 ml inj.	
flumazenil	neostigmine	
furosemide	neostigmine 10 mg/10 ml vial	
gentamycin sulfate	nitroglycerin	
glycopyrrolate	nitroglycerin 2% ud	

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Requestor Information:

Name: Leo Flangas

Agency/Business Name: Flangas Law Firm

Address: 600 South Third St

City: Las Vegas State: NV Zip: 89101

Telephone: (702) 384-1990 Email: Leo@FlangasLawFirm.com

Public Information Regarding:

Licensee's or Registrant's Full Name: Maryanne Phillips MD

License or Registration Number (if known): _____

Please send the completed request to:

Medical Board of California
Attn: Central File Room
P.O. Box 15588
Sacramento, CA. 95852
or
Fax (916) 263-2420
Or
central.fileroom@mbc.ca.gov

Certificate of Completion

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BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY, **Petitioner,** **v.** **MARYANNE PHILLIPS, MD** **Certificate of Registration No. CS19260** **Respondent.**	))))))))))) /	**CASE NO. 13-061-CS-S** **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

NEVADA STATE BOARD OF PHARMACY
MAR - 6 2014
FILED

The Nevada State Board of Pharmacy (Board) heard this matter at its regular meeting on Wednesday, March 5, 2014, in Reno, Nevada. Attorney S. Paul Edwards represented the Board in his capacity as its General Counsel. Attorney Puneet K. Garg, of the law firm Gordon Silver, appeared on behalf of respondent MaryAnne Phillips, M.D., Certificate of Registration No. CS19260. Based on the evidence and arguments presented at the hearing, the Board issues the following Findings of Fact, Conclusions of Law and Order.

I.

FINDINGS OF FACT

1. During the March 5, 2014 hearing in this matter, the Board admitted into evidence copies of certain public records filed by the Medical Board of California, Department of Consumer Affairs, (the "California Board") in California Case No. 19-2010-211768 (OAH No. 2012060101) (the "California Disciplinary Action"). Those documents were marked and admitted as Exhibit A through E.[1] Those public records show that in the California Disciplinary Action, the California Board revoked respondent Maryanne Phillips' California Physician's and Surgeon's Certificate No. A-63753 (CA Certificate) effective August 26, 2013.

[1] The Board also admitted as "Exhibit F" an affidavit from S. Paul Edwards, Esq., attesting to the source from which Board Staff obtained Exhibits A through E, which are public documents filed by the California Medical Board relating to its discipline of Dr. Phillips.

2. On December 18, 2013, the Nevada State Board of Pharmacy brought a parallel action against Respondent Dr. Phillips pursuant to NRS 639.210(14) based on the findings in the California Disciplinary Action.

3. The evidence presented at the hearing supports the allegations in the December 18, 2013 Accusation in this matter, which are summarized as follows:

4. The California Board revoked Dr. Phillips' California Physician's and Surgeon's Certificate No. A-63753 ("California Certificate"), effective "at 5:00 p.m. on August 16, 2013." Exhibit B.

5. The California Board took that action after adopting the Proposed Decision of Administrative Law Judge Roy W. Hewitt (the "ALJ"), of the California Office of Administrative Hearings. Exhibit A.

6. The ALJ entered his Proposed Decision on June 26, 2013, after conducting an evidentiary hearing on the matter earlier that month. Id.

7. On August 15, 2013, the California Board entered an Order Granting Stay, which stayed the revocation of Dr. Phillips' license until August 26, 2013. Exhibit D.

8. The California Board stayed its Decision to allow time for it to review and consider a petition for reconsideration filed by Dr. Phillips. Exhibit E.

9. The California Board denied Dr. Phillips' Petition for Reconsideration on August 23, 2013. Id.

10. Dr. Phillips' California license to practice medicine was therefore revoked no later than August 26, 2013.

11. The ALJ's findings, which the Board found credible and relied upon pursuant to NRS 639.210(14), are as follows:

a. Prior to having her California Certificate revoked in August 2013, Dr. Phillips had been disciplined, including substantial periods of probation, by the California Board,

the Nevada State Board of Medical Examiners, the Nevada State Board of Pharmacy and the New Mexico Medical Board. Ex. A, pp. 2-8.

b. Those disciplinary actions occurred between August 2006, and entry of the ALJ's June 2013 Proposed Decision.

Initial 2009 California Discipline

c. The first of those disciplinary actions is a 2009 case in which the California Board alleged against Dr. Phillips (1) gross negligence, (2) repeated negligent acts, (3) incompetence, (4) violations of drug statutes, (5) excessive prescribing, (6) prescribing to an addict, (7) prescribing without a good faith examination, (8) absence of medical indication and (9) failure to maintain accurate records. (Ex. A (ALJ Rec.) p.2, ¶¶3, 5).

d. Dr. Phillips stipulated in that action in December 2008, that the CA Board "could establish a prima facie case with respect to the charges" and her license was subject to discipline.

e. The California Board revoked Dr. Phillips' Certificate in April 2009, then stayed the revocation and placed Dr. Phillips on probation for three years with certain terms and conditions. Ex. A, p.2, ¶5.

2009 Nevada Board of Medical Examiners Discipline

f. In May 2009, Dr. Phillips renewed her license to practice medicine with the Nevada State Board of Medical Examiners (BME). Id., p.3, ¶6. In response to Question 9 on the BME's renewal application, which asked "'[h]ave you had a medical license or license to practice any other healing art revoked, suspended, limited, or restricted in any state, country or U.S. territory?', [Dr. Phillips] falsely answered . . . in the negative." Id.

g. Based on that false representation, the BME brought an accusation against Dr. Phillips. Id., p.3, ¶7. Dr. Phillips and the BME settled that matter by agreeing that Dr. Phillips would receive a public reprimand, her Nevada medical license would be revoked. Id.,

p.3, ¶¶6-8. The BME stayed the revocation and placed Dr. Phillips on probation until April 6, 2012. Id.

2010 Nevada Board of Pharmacy Discipline

h. In December 2010, the Nevada State Board of Pharmacy filed an accusation against Dr. Phillips alleging, in part, that Dr. Phillips had provided false information on her November 17, 2010 renewal application. Ex. A, p.3, ¶9. Dr. Phillips admitted in a February 2011 Stipulation and Order with this Board to "provid[ing] false information on her renewal application by failing to disclose the administrative actions taken against her and the administrative action that was still pending against her." Id., p.3, ¶10.

i. As a result of Dr. Phillips' admissions, the Nevada Board of Pharmacy cancelled Dr. Phillips' Nevada Controlled Substance Registration and DEA Registration, effective March 1, 2011. Id. The Board allowed Dr. Phillips to apply for a new controlled substance registration reflecting her disciplinary actions. Id. The Board revoked that new registration, then stayed the revocation and placed Dr. Phillips on probation until February 2013. Id.

2011 New Mexico Medical Board Discipline

j. Based on the April 2009 California discipline, the New Mexico Medical Board (New Mexico Board) entered into an "agreed order" with Dr. Phillips, in which Dr. Phillips agreed to have her New Mexico medical license placed on probation until she completed the terms and conditions ordered by the CA Board and her California license had been fully restored. Ex. A, p.4, ¶11. One of the terms of that "Agreed Order" with the New Mexico Board was that Dr. Phillips would "'provide quarterly affidavits to the [New Mexico] Board attesting to her compliance with the terms set forth in [the] Agreed Order." Id.

k. In August 2011, the New Mexico Board filed an accusation against Dr. Phillips, and ultimately disciplined her for failing to provide the agreed upon quarterly affidavits, and for failing to inform the New Mexico Board that she was publicly reprimanded and placed on

probation by the Nevada BME. Id., p.4, ¶12. After Dr. Phillips failed to respond to that accusation, the New Mexico Board issued a Default Decision and Order revoking Dr. Phillips' license to practice medicine in New Mexico. Id., p.5, ¶13.

2011 Nevada Board of Medical Examiner's Discipline

l. In January 2011, the BME filed another complaint against Dr. Phillips charging her with:

> One count of engaging in conduct intended to deceive . . . One count of violating a regulation adopted by the [Nevada] State Board of Pharmacy . . . . One count of prescribing a controlled substance except as authorized by law . . . and one count of failure to maintain timely, legible, accurate and complete medical records related to the diagnosis, treatment and care of [a patient]. . . . (Exh.29).
>
> Id., p.5, ¶13 (quoting January 28, 2011 BME Complaint).

m. Dr. Phillips settled that matter with the BME in April 2012. Pursuant to the parties' "Settlement, Waiver and Consent Agreement", Dr. Phillips agreed to accept a public letter of reprimand, her Nevada medical license was revoked, the revocation was stayed, and Dr. Phillips was placed on probation for thirty-six (36) months. Ex. A, p.5, ¶¶15-16.

2013 California Medical Board Discipline and Revocation of Dr. Phillips' License

n. In the ALJ's June 2013 Proposed Decision, the ALJ found that Dr. Phillips had failed to comply with the terms of her California probation. Id., pp.6-7, ¶¶17-21.

o. One of the terms of Dr. Phillips' California probation was that she would file quarterly declarations with the California Board declaring, under penalty of perjury, that she had answered the questions in the Quarterly Declaration Form truthfully. Id.

p. The ALJ found that Dr. Phillips had not answered the questions in the Quarterly Declaration Form truthfully. Id., p.7, ¶¶20-12. The ALJ found that Dr. Phillips failed to disclose (a) her February 2011 discipline and placement on probation by the Nevada Board of

Pharmacy, and (b) her April 2012 discipline by the Nevada BME, including her public letter of reprimand and probation. Id., p.6, ¶¶17-21.

q. The ALJ found that Dr. Phillips falsely represented those disciplines to the CA Board as "reciprocal" discipline, when they were truthfully each supported by independent grounds for discipline. Id., p.7, ¶20-21.

r. The ALJ found that Dr. Phillips filed false Quarterly Declarations with the CA Board again in July 2011, by again failing to disclose and misrepresenting her discipline in Nevada. Id.

s. The ALJ described Dr. Phillips' testimony at the June 3, 2013 hearing regarding those false Quarterly Declarations as "merely serv[ing] to highlight the fact that [Dr. Phillips] plays fast and loose with the truth." Ex. A, p.7, ¶23.

t. The ALJ found that Dr. Phillips "engages in half-truths and slight of tongue to obfuscate the truth. In other words, [Dr. Phillips], by her own statements during the hearing . . . proved to be a consummate liar." Id.

u. The ALJ further stated:

> Based on [Dr. Phillips'] equivocations and misrepresentations to the court in the present action, and her seeming inability to distinguish truth from fiction, [her] testimony was completely discounted.
>
> Id. at ¶25.

v. Based on the findings of fact in the Proposed Decision, The ALJ concluded that legal and factual grounds existed under California law for further discipline of Dr. Phillips. Id., pp.8-9. Based on his conclusion that numerous violations of California law had occurred, The ALJ recommended to the CA Board the "outright revocation of [Dr. Phillips'] certificate to practice medicine in the state of California." Id., p.9.

w. The California Board adopted the ALJ's recommendation and revoked Dr. Phillips' license on or about August 26, 2013. Ex. B.

II.

CONCLUSIONS OF LAW

Based on the forgoing findings of fact, the Board concludes on matters of law as follows:

12. The Board has jurisdiction over this matter because at the time of the conduct set forth above, respondent held a controlled substance registration issued by this Board.

13. All objections made by respondent's counsel regarding the admissibility or evidentiary value of the Exhibits admitted as Exhibits A through F are overruled.

14. The Board admitted as evidence an email presented by respondent's counsel during the hearing, which shall be designated as Exhibit G.

15. The Board did not admit into evidence a letter from Dr. Daniel Royal, which was presented by respondent's counsel, on the basis that it was not relevant to the issues before the Board.

16. Respondent is guilty of the acts alleged in the Accusation on file in this matter, as further described in the findings of the ALJ in Exhibit A.

17. Pursuant to NRS 639.210(14), "[t]he Board may suspend or revoke any certificate, license, registration or permit issued pursuant to this chapter, and deny the application of any person for a certificate, license, registration or permit, if the holder or applicant . . . . : 14. [h]as had a certificate, license or permit suspended or revoked in another state on grounds which would cause suspension or revocation of a certificate, license or permit in this State."

18. Grounds which would cause suspension or revocation of a certificate, license or permit in this state include:

a. Being "not of good moral character";

b. "[Obtaining] any certificate, certification, license or permit by the filing of an application, or any record, affidavit or other information in support thereof, which is false or fraudulent";

c. Being "guilty of unprofessional conduct or conduct contrary to the public interest", which pursuant to NAC 639.945 specifically includes "performing or in any way being a party to any fraudulent or deceitful practice of transaction."

19. Dr. Phillips' actions, based on the findings above, constitute "grounds which would cause suspension or revocation of a certificate, license or permit in this State."

THEREFORE, THE BOARD HEREBY ORDERS:

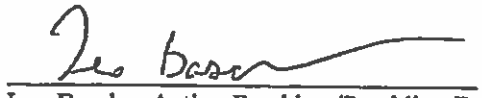
20. The Controlled Substance Registration of MaryAnne Phillips, Certificate of Registration No. CS19260, is hereby revoked for at least one year from the effective date of this Order.

21. Dr. Phillips may not write any prescription or order for any Controlled Substance or possess any Controlled Substance unless and until her Certificate of Registration is reinstated.

22. After one year from the effective date of this Order, Dr. Phillips may apply to the Board for reinstatement of her Certificate of Registration.

23. If Dr. Phillips applies to the Board for reinstatement of her Certificate of Registration, she shall appear before the Board at regularly scheduled Board Meeting to respond to questions put to her by the Members of the Board and/or Board Staff. The Board is under no obligation to reinstate Dr. Phillips' registration, and may, at its sole discretion, determine whether to reinstate Dr. Phillips' registration according to its authority to do so pursuant to applicable laws and regulations.

Signed this 6 day of March, 2014.



Leo Basch – Acting President/Presiding Board Member,
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY, **Petitioner,** **v.** **MARYANNE PHILLIPS, MD** **Certificate of Registration No. CS19260** **Respondent.**	)))))))))) /	**CASE NO. 13-061-CS-S** **NOTICE OF INTENDED ACTION AND ACCUSATION**

NEVADA STATE BOARD OF PHARMACY
DEC 18 2013
FILED

Larry L. Pinson, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3) and as an accusation under NRS 639.241.

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter and this respondent because respondent Maryanne Phillips has a Controlled Substance Registration, No. CS19260, issued by the Board.

II.

Procedural Background in California Case Revoking Dr. Phillips' Medical License

Effective August 26, 2013, the Medical Board of California, Department of Consumer Affairs, (CA Board) revoked respondent Maryanne Phillips' California Physician's and Surgeon's Certificate No. A-63753 (CA Certificate), in California Case No. 19-2010-211768 (OAH No. 2012060101), thereby revoking Dr. Phillips' privilege to practice medicine in the state of California.

III.

The CA Board revoked Dr. Phillips' CA Certificate after adopting the Proposed Decision of Administrative Law Judge Roy W. Hewitt (the ALJ), of the California Office of Administrative Hearings. *See* **Proposed Decision**, dated June 26, 2013, attached as **Exhibit A**

and incorporated herein by reference. The ALJ entered his Proposed Decision on June 26, 2013, after conducting an evidentiary hearing on the matter earlier that month. *Id.*

IV.

The CA Board "accepted and adopted" the ALJ's Proposed Decision as its Decision and Order on July 17, 2013. *See* **Decision**, attached as **Exhibit B** and incorporated herein by reference. The CA Board made its Decision effective "at 5:00 p.m. on August 16, 2013."[1]

V.

On August 15, 2013, the CA Board entered an Order Granting Stay, which stayed the revocation of Dr. Phillips' license until August 26, 2013. *See* **Order Granting Stay**, attached as **Exhibit D**. The CA Board stayed its Decision to allow time for it to review and consider a petition for reconsideration filed by Dr. Phillips. **Exhibit E**. The CA Board denied Dr. Phillips' Petition for Reconsideration on August 23, 2013. *Id.* Dr. Phillips' CA license to practice medicine in California was therefore revoked no later than August 26, 2013.

VI.

Summary of Findings and Conclusions in 2013 California Case

Following the June 2013 hearing in Case No. 19-2010-211768, The ALJ found, in relevant part, that:

1. Prior to having her CA Certificate revoked in August 2013, Dr. Phillips had been disciplined, including substantial periods of probation, by the CA Board, the Nevada State Board of Medical Examiners, the Nevada State Board of Pharmacy and the New Mexico Medical Board. *See* Ex. A, pp. 2-8. Those disciplinary actions occurred between August 2006, and entry of the ALJ's June 2013 Proposed Decision. *Id.*

---

[1] On July 30, 2013, the CA Board entered an *Order Correcting Decision* in this matter correcting the ALJ's *Proposed Decision* (Ex. A) to reflect Dr. Phillips' correct Physician's and Surgeon's Certificate Number: A-63753, rather than A-89141. *See* Order Correcting Decision, attached as **Exhibit C**, and incorporated herein by reference.

Initial 2009 California Discipline

2. In a 2009 case, the CA Board revoked Dr. Phillips' Certificate in April 2009, then stayed the revocation and placed Dr. Phillips on probation for three years with certain terms and conditions. Ex. A, p.2, ¶5.

2009 Nevada Board of Medical Examiners Discipline

3. In May 2009, Dr. Phillips renewed her license to practice medicine with the Nevada State Board of Medical Examiners (BME). *Id.*, p.3, ¶6. In response to Question 9 on the BME's renewal application, which asked "'[h]ave you had a medical license or license to practice any other healing art revoked, suspended, limited, or restricted in any state, country or U.S. territory?', [Dr. Phillips] falsely answered . . . in the negative." *Id.*

4. Based on that false representation, the BME brought an accusation against Dr. Phillips. *Id.*, p.3, ¶7. Dr. Phillips and the BME settled that matter by agreeing that Dr. Phillips would receive a public reprimand, her Nevada medical license would be revoked. *Id.*, p.3, ¶¶6-8. The BME stayed the revocation and placed Dr. Phillips on probation until April 6, 2012. *Id.*

2010 Nevada Board of Pharmacy Discipline

5. In December 2010, the Nevada State Board of Pharmacy filed an accusation against Dr. Phillips alleging, in part, that Dr. Phillips had provided false information on her November 17, 2010 renewal application. Ex. A, p.3, ¶9. Dr. Phillips admitted in a February 2011 Stipulation and Order with this Board to "provid[ing] false information on her renewal application by failing to disclose the administrative actions taken against her and the administrative action that was still pending against her." *Id.*, p.3, ¶10.

6. As a result of Dr. Phillips' admissions, the Nevada Board of Pharmacy cancelled Dr. Phillips' Nevada Controlled Substance Registration and DEA Registration, effective March 1, 2011. *Id.* The Board allowed Dr. Phillips to apply for a new controlled substance registration reflecting her disciplinary actions. *Id.* The Board revoked that new registration, then stayed the revocation and placed Dr. Phillips on probation until February 2013. *Id.*

2011 New Mexico Medical Board Discipline

7. Based on the April 2009 California discipline, the New Mexico Medical ____ (New Mexico Board) entered into an "agreed order" with Dr. Phillips, in which Dr. Phillips agreed to have her New Mexico medical license placed on probation until she completed the terms and conditions ordered by the CA Board and her California license had been fully restored. Ex. A, p.4, ¶11. One of the terms of that "Agreed Order" with the New Mexico Board was that Dr. Phillips would "'provide quarterly affidavits to the [New Mexico] Board attesting to her compliance with the terms set forth in [the] Agreed Order." *Id.*

8. In August 2011, the New Mexico Board filed an accusation against Dr. Phillips, and ultimately disciplined her for failing to provide the agreed upon quarterly affidavits, and for failing to inform the New Mexico Board that she was publicly reprimanded and placed on probation by the Nevada BME. *Id.*, p.4, ¶12. After Dr. Phillips failed to respond to that accusation, the New Mexico Board issued a Default Decision and Order revoking Dr. Phillips' license to practice medicine in New Mexico. *Id.*, p.5, ¶13.

2011 Nevada Board of Medical Examiner's Discipline

9. In January 2011, the BME filed another complaint against Dr. Phillips charging her with:

> "One count of engaging in conduct intended to deceive . . . One count of violating a regulation adopted by the [Nevada] State Board of Pharmacy . . . . One count of prescribing a controlled substance except as authorized by law . . . and one count of failure to maintain timely, legible, accurate and complete medical records related to the diagnosis, treatment and care of [a patient]. . . . (Exh.29)."

See Id., p.5, ¶13 (*quoting* January 28, 2011 BME Complaint).

10. Dr. Phillips settled that matter with the BME in April 2012. Pursuant to the parties' "Settlement, Waiver and Consent Agreement", Dr. Phillips agreed to accept a public letter of reprimand, her Nevada medical license was revoked, the revocation was stayed, and Dr.

Phillips was placed on probation for thirty-six (36) months. Ex. A, p.5, ¶¶15-16.

2013 California Medical Board Discipline and Revocation of Dr. Phillips' License

11. In the ALJ's June 2013 Proposed Decision, the ALJ found that Dr. Phillips had failed to comply with the terms of her California probation. *Id.*, pp.6-7, ¶¶17-21.

12. One of the terms of Dr. Phillips' California probation was that she would file quarterly declarations with the California Board declaring, under penalty of perjury, that she had answered the questions in the Quarterly Declaration Form truthfully. *Id.* The ALJ found that Dr. Phillips had not answered the questions in the Quarterly Declaration Form truthfully. *Id.*, p.7, ¶¶20-12. The ALJ found that Dr. Phillips failed to disclose (a) her February 2011 discipline and placement on probation by the Nevada Board of Pharmacy, and (b) her April 2012 discipline by the Nevada BME, including her public letter of reprimand and probation. *Id.*, p.6, ¶¶17-21.

13. The ALJ found that Dr. Phillips falsely represented those disciplines to the CA Board as "reciprocal" discipline, when they were truthfully each supported by independent grounds for discipline. *Id.*, p.7, ¶20-21.

14. The ALJ found that Dr. Phillips filed false Quarterly Declarations with the CA Board again in July 2011, by again failing to disclose and misrepresenting her discipline in Nevada. *Id.*

15. The ALJ described Dr. Phillips' testimony at the June 3, 2013 hearing regarding those false Quarterly Declarations as "merely serv[ing] to highlight the fact that [Dr. Phillips] plays fast and loose with the truth." Ex. A, p.7, ¶23.

16. The ALJ found that Dr. Phillips "engages in half-truths and slight of tongue to obfuscate the truth. In other words, [Dr. Phillips], by her own statements during the hearing . . . proved to be a consummate liar. *Id.*

17. The ALJ further stated

> Based on [Dr. Phillips'] equivocations and misrepresentations to the court in the present action, and her seeming inability to distinguish truth from fiction, [her] testimony was completely discounted.

Id. at ¶25.

VII.

Based on the findings of fact in the Proposed Decision, The ALJ concluded that legal and factual grounds existed under California law for further discipline of Dr. Phillips. *Id.*, pp.8-9. Based on his conclusion that numerous violations of California law had occurred, The ALJ recommended to the CA Board the "outright revocation of [Dr. Phillips'] certificate to practice medicine in the state of California." *Id.*, p.9.

VIII.

The CA Board adopted the ALJ's recommendation and revoked Dr. Phillips' license on or about August 26, 2013. *See* Ex. B.

CAUSE OF ACTION

IX.

In receiving discipline against her license in California for actions that would be grounds for discipline, suspension or revocation of her license in Nevada, respondent Maryanne Phillips is subject, pursuant to NRS 639.210(14) and/or NRS 639.255, to discipline in Nevada to parallel the California action.

WHEREFORE it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the license of respondent Maryanne Phillips.

Signed this 18th day of December, 2013.

Larry L. Pinson, Pharm.D., Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements regarding your certificate of registration. To do so, you must mail to the Board within 15 days of your receipt of this Notice of Intended Action and Accusation a written statement showing your compliance.

Exhibit A

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation and Petition to Revoke Probation Against: MARYANNE PHILLIPS, M.D. Physician's and Surgeon's Certificate No. A 63753, Respondent.	Case No. 19-2010-211768 OAH No. 2012060101

PROPOSED DECISION

This matter came on regularly for hearing before Roy W. Hewitt, Administrative Law Judge (ALJ), Office of Administrative Hearings, in San Diego, California on June 3, 2013.

Deputy Attorney General Samuel K. Hammond represented complainant.

Maryanne Phillips, M.D. (respondent) represented herself.

MOTION TO CONTINUE TO OBTAIN COUNSEL

In her Notice of Defense respondent indicated she was represented in this action by Jess R. Marchese, Esq., a Nevada attorney. On the first day of hearing respondent notified the ALJ that she was being represented by Eric Chase, Esq., a California attorney, and that Mr. Chase had been hospitalized on Thursday, May 30, 2013, with the flu and was still ill and could not, therefore, represent her unless the matter was continued to a time when her attorney regained his health. The ALJ directed respondent to contact Mr. Chase's office to determine his current status and to further obtain an estimate as to when he would be available to represent respondent. The ALJ recessed the hearing so that respondent could make telephonic contact with Mr. Chase's office. After reconvening, respondent informed the ALJ that she could not get in contact with Mr. Chase; however, one of the witnesses, respondent's probation monitor, who was present to testify during the hearing, informed the ALJ that she was successful in contacting Mr. Chase during the recess and that Mr. Chase indicated to her that he was not sick and that he was not retained to represent respondent in the instant proceedings. Respondent's

probation monitor provided the ALJ with Mr. Chase's telephone number and the ALJ, in the presence of the parties, called Mr. Chase. Mr. Chase stated that he had never been retained to represent respondent during the instant hearing. Mr. Chase further stated that although he had been sick the week before the hearing, he was not currently ill. After the telephone conversation with Mr. Chase respondent attempted to clarify her position by telling the ALJ that she believed her Nevada attorney had hired Mr. Chase to represent her in these proceedings. Respondent's attempt to explain herself was unpersuasive. The ALJ concluded that respondent attempted to mislead the court by telling half-truths and the continuance motion was denied.

Oral and documentary evidence was received and the matter was submitted on June 3, 2013.

FACTUAL FINDINGS

1. The Accusation and Petition to Revoke Probation against respondent was filed by Linda K. Whitney (complainant), while acting in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs, State of California (the Board).

2. On October 24, 1997, the Board issued respondent Physician's and Surgeon's Certificate No. A 63753.

Prior California Discipline

3. On August 21, 2006, David T. Thornton, then Executive Director of the Board, filed an accusation against respondent in Case number 09-2004-161866. The accusation alleged that respondent committed acts of gross negligence, repeated negligent acts, incompetence, violations of drug statutes, excessive prescribing, prescribing to an addict, prescribing without a good faith examination and in the absence of medical indication, and failed to maintain accurate records during her care and treatment of two patients.

4. On December 2, 2008, respondent signed a Stipulated Settlement and Disciplinary Order in Case number 09-2004-161866. In the Stipulated Settlement respondent admitted that complainant "could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 09-2004-1618666, and that she has thereby subjected her Physician's and Surgeon's Certificate No. A 63753 to disciplinary action." (Exh. 8)

5. Effective April 6, 2009, respondent's certificate was revoked, the revocation was stayed and respondent was placed on probation for three years on certain terms and conditions, including: obey all laws and rules; submission of quarterly reports; and, comply with the Board's probation unit.

2009 Nevada State Board of Medical Examiners' Complaint Against Respondent and the Resulting Discipline

6. After the April 6, 2009, discipline in California respondent moved to Nevada where she had been licensed since December 21, 1995. On May 8, 2009, respondent renewed her license with the Nevada State Board of Medical Examiners (Nevada Board). Question number 9 on the renewal application asked "[h]ave you had a medical license or license to practice any other healing art revoked, suspended, limited, or restricted in any state, country or U.S. territory?" Respondent falsely answered Question 9 in the negative.

7. On December 23, 2009, the Nevada Board filed a complaint against respondent alleging that respondent was subject to discipline because she obtained her renewed license to practice medicine by "misrepresentation or by [a] false, misleading, inaccurate or incomplete statement. . . ." (Exh. 14)

8. In January 2011, respondent entered into a settlement agreement with the Nevada Board. Pursuant to that agreement respondent received a public reprimand, her license was revoked, the revocation was stayed and respondent was placed on probation until April 6, 2012.

2010 Nevada State Board of Pharmacy Accusation Against Respondent and the Resulting Discipline

9. On December 8, 2010, the Nevada State Board of Pharmacy filed an accusation against respondent based, in part, on an allegation that respondent's November 17, 2010, application for renewal of her controlled substance registration contained false information. In pertinent part, the accusation alleged the following:

> On the renewal notice there are three questions that Respondent had to answer:
>
> Since your last renewal or recent licensure have you:
>
> 1. Been charged, arrested or convicted of a felony or misdemeanor in any state?
>
> 2. Been the subject of an administrative action whether completed or pending in any state?
>
> 3. Had your license subjected to any discipline for violation of pharmacy or drug laws in any state?
>
> To the first question Respondent Phillips answered, 'no.' To the second question Respondent Phillips answered 'yes' and

> 'no' and then wrote, 'Not since last renewal.' To the third question Respondent Phillips answered 'no.' In the administrative action section of the renewal application Respondent Phillips wrote, 'CA' and in the criminal action section she wrote 'none."
>
> ¶ . . . ¶
>
> On April 6, 2009, Respondent Phillips entered into a Stipulated Settlement and Disciplinary Order, File No. 09-2004-161866, with the Medical Board of California. On December 21, 2009, Respondent Phillips entered into an Agreed Order with the New Mexico Medical Board. On December 23, 2009, the Nevada Board of Medical Examiners filed a formal complaint against Respondent Phillips that is still pending. None of these administrative actions were disclosed by Respondent Phillips as is required by the renewal application. (Exh. 18)

10. In a February 2, 2011, Stipulation and Order by the Nevada State Board of Pharmacy respondent admitted that she provided false information on her renewal application by failing to disclose the administrative actions taken against her and the administrative action that was still pending against her. As a result of the stipulated settlement respondent's Controlled Substance Registration and DEA Registration were cancelled, effective March 1, 2011; however, respondent was allowed to apply for a new controlled substance registration reflecting her disciplinary actions. That registration was revoked, the revocation was stayed and respondent was placed on probation until February 2, 2013 (Exh. 18)

New Mexico Medical Board Actions Against Respondent

11. Based on the April 6, 2009, California discipline, the New Mexico Board issued an "Agreed Order." The Order, which respondent signed on November 18, 2009, placed respondent on probation in New Mexico "until she has successfully completed the terms and conditions set forth in the California Medical Board Order and her license has been fully restored in that state." (Exh. 21) One of the conditions of the New Mexico probation order was that respondent "will provide quarterly affidavits to the Board attesting to her compliance with the terms set forth in this Agreed Order."

12. On August 26, 2011, the New Mexico Board filed a Notice of Contemplated Action (an Accusation) against respondent. On September 2, 2011, the New Mexico Board amended the Accusation. The Amended Accusation alleged the following:

> A. In December 2009 the Board approved an Agreed Order with Respondent which provided, in part, that Respondent

> would provide quarterly affidavits to the Board attesting to her compliance with the terms set forth in the Agreed Order. To date, Respondent has submitted none of the affidavits required by the Agreed Order. . .
>
> B. In January 2011, Respondent entered into a Settlement Agreement with the Nevada Board of Medical Examiners pursuant to which she was, among other things, to receive a public reprimand and be placed on probation. . . . Respondent failed to inform the Board of the action by the Nevada Board. (Exh. 22)

13. Respondent failed to provide a defense to the allegations of the Accusation so, on November 10, 2011, the New Mexico Board issued a Default Decision and Order revoking respondent's New Mexico license to practice medicine. (Exh. 22)

2011 Nevada Board, Investigative Committee's, Complaint Against Respondent and the Resulting Discipline

14. On January 28, 2011, the Investigative Committee filed a Complaint against respondent charging her with engaging in conduct that is grounds for discipline pursuant to the Nevada Medical Practice Act. The Complaint charged respondent as follows:

> One count of engaging in conduct intended to deceive . . . . One count of violating a regulation adopted by the State Board of Pharmacy . . . . One count of prescribing a controlled substance except as authorized by law. . . and one count of failure to maintain timely, legible, accurate and completed medical records related to the diagnosis, treatment and care of [a patient]. . . . (Exh. 29)

15. On April 17, 2012, respondent signed a "Settlement, Waiver and Consent Agreement" in the Nevada matter.

16. As a result of the Settlement/Consent Agreement respondent's license was revoked, the revocation was stayed, respondent was issued a public letter of reprimand and was placed on thirty-six (36) months of probation. The Public Letter of Reprimand summarized the disciplinary action as follows:

> In Accordance with its acceptance of the Agreement, the Board has entered an Order finding that you engaged in conduct intended to deceive . . . and that you failed to maintain timely, legible, accurate and complete medical records related to the diagnosis, treatment and care of a patient. . . . The Order calls

> for your license to be revoked and that the revocation be stayed and that you be placed on thirty-six (36) months probation . . . . (Exh. 29)

Respondent's Lack of Compliance With the Terms and Conditions of Her California Probation

17. Probation condition number 8 of the Board's Decision and Order in Case No. 09-2004-161866 required that "Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation. . . ." (Exh. 8).

18. The Quarterly Declarations signed and submitted by respondent contained the following oath:

> I hereby submit this Quarterly Declaration as required by the Medical Board of California and its Order of probation thereof and declare under penalty of perjury under the laws of the State of California that I have read the foregoing declaration and any attachments in their entirety and know their contents and that all statements made are true in every respect and I understand and acknowledge that any misstatements, misrepresentations, or omissions of material fact may be cause for further disciplinary actions. (Exh. 5)

19. Question number 10 the Quarterly Reports submitted by respondent asks: "Have you been denied, had a license or certificate to practice a business or profession suspended, revoked, or surrendered or otherwise disciplined by any other federal , state, government agency or other country?" Question number 10 is followed by two boxes; one box labeled "yes*" with an asterisk, and one box labeled "no." In bold print beneath the questions section of the application is the following explanation of the asterisk attached to the number 10 question's "yes" answer: "***IF YOU ANSWERED YES, to the above question numbers 1 through 10 . . ., <u>you must explain in detail, on an attached sheet of paper.</u>**" (Exh. 5, emphasis in original) Therefore, if respondent checked the "yes" box she was required to provide a <u>detailed</u> explanation.

20. On March 30, 2011, respondent failed to check either the "yes" or "no" boxes in response to Question 10. Following Question 10, respondent wrote "reciprocal probation-New Mexico and <u>Nevada</u>." The information provided by respondent was false, misleading, and was not "true in every respect." Respondent failed to check the "yes" box and disclose the following disciplines: on February 2, 2011, the Nevada State Board of Pharmacy disciplined her DEA Registration and Nevada Controlled Substance Registration by placing her Nevada Controlled Substances Registration on probation for two years; and the Nevada Board imposed disciplinary action on her Nevada medical license by publicly reprimanding

her and placing her Nevada Medical License on probation. Furthermore, respondent failed to "explain in detail" that the Nevada Pharmacy and Medical Boards imposed the discipline(s) based on the fact that respondent provided false information in her renewal applications. (Exh.5, AGO 0082) They were not "reciprocal" disciplines, she was disciplined in those states for her acts of dishonesty when completing those states' renewal applications. This conduct violated condition 8 of respondent's California probation.

21. On July 10, 2011, respondent again failed to check either the "yes" or "no" boxes in response to question 10. Near the "yes" and "no" boxes respondent wrote: "recently renewed Nevada Lic" (Exh. 5, AGO 0085) Again, respondent failed to disclose her Nevada disciplines and failed to provide a "detailed explanation" of the Nevada disciplines. Again, respondent violated condition 8 of her California probation.

Respondent's Testimony Concerning Her Failure to Comply With Condition Number 8 of Her California Probation

22. In essence, respondent testified that although she did not check the "yes" or "no" box on her March 30, 2011 and July 10, 2011, California quarterly reports she did write information on the quarterly reports that should have alerted her probation monitor to the Nevada and New Mexico disciplinary actions. As previously noted, on the March 30, 2011, quarterly report respondent noted "reciprocal probation-New Mexico and Nevada," however, this statement was not accurate. Respondent's disciplinary actions in Nevada and New Mexico were not "reciprocal probations" based on respondent's California discipline. Rather, the Nevada and New Mexico actions were based on false information respondent provided on her applications and her failure to disclose the Nevada actions to the New Mexico Board. On respondent's July 10, 2011, quarterly report, respondent wrote "recently renewed Nevada Lic." However, respondent conveniently left out the fact that as a result of a Settlement/Consent Agreement respondent's license was revoked, the revocation was stayed, respondent was issued a public letter of reprimand and was placed on thirty-six (36) months of probation.

23. Respondent's testimony merely served to highlight the fact that she plays fast and loose with the truth. Respondent engages in half-truths and slight of tongue to obfuscate the truth. In other words, respondent, by her own statements during the hearing, both during the motion phase of the hearing and during the substantive phase of the hearing, proved to be a consummate liar.

Respondent's Testimony Concerning the Nevada and New Mexico Disciplinary Actions

24. During her testimony respondent attempted to explain how she was railroaded in the Nevada and New Mexico disciplinary proceedings. According to respondent she was represented by several attorneys during the course of the Nevada and New Mexico proceedings and the attorneys were inept. For example, one of the attorneys did not hire a hand-writing expert to examine the prescriptions/scripts that formed the basis of some of the

improper prescribing allegations respondent faced. It was explained to respondent during the hearing that she was bound by the findings and the discipline imposed by Nevada and New Mexico and could not collaterally attack those determinations in this action. (See *Arneson v. Fox* (1980) 28 Cal.3d 440, 449.)

25. Based on respondent's equivocations and misrepresentations to the court in the present action, and her seeming inability to distinguish truth from fiction, respondent's testimony was completely discounted.

LEGAL CONCLUSIONS

1. California Business and Professions Code section 2303 provides:

> The revocation, suspension, or other discipline, restriction, or limitation imposed by another state upon a license or certificate to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California of a licensee under this chapter, shall constitute grounds for disciplinary action for unprofessional conduct against the licensee of this state.

2. California Business and Professions Code section 2261 provides that the following constitutes unprofessional conduct in California: "Knowingly making or signing any certificate or other document directly or indirectly related to the practice of medicine or podiatry which falsely represents the existence or nonexistence of a state of facts."

3. Causes for discipline exist pursuant to California Business and Professions Code sections 2305 and 2261 for each individual instance which formed the bases for respondent's Nevada Medical Board, Nevada Pharmacy Board and New Mexico Medical Board disciplines.

4. Causes for discipline exist pursuant to California Business and Professions Code section 2305 for each of respondent's false answers on her March 30, 2011, and July 10, 2011, California quarterly probation reports.

5. Causes for revocation of respondent's probation exist based on respondent's failure to comport with condition 8 of her probation.

6. The grant of probation by a regulatory agency is an act of grace. One who is placed on probation should strictly adhere to the terms and conditions of the probation and not play fast and loose with the conditions. Respondent's conduct in California, Nevada and New Mexico, when viewed individually and cumulatively reveal that respondent did not appreciate the act of grace that was bestowed upon her by any of the jurisdictions. Instead of being

thankful for the chance to prove herself, respondent abused the privilege of being placed on probation and her abuses of probation provided evidence that she cannot be trusted to adhere to terms and conditions designed to ensure public protection. Consequently, the only action appropriate to protect the public is to revoke respondent's probation and, based on the revocation and the other independent bases for discipline, order the outright revocation of respondent's certificate to practice medicine in the state of California.

ORDER

Respondent Maryanne Phillips's California Physician's and Surgeon's Certificate No. A 89141 and all rights appurtenant thereto is/are revoked.

Dated: June 26, 2013.

ROY W. HEWITT
Administrative Law Judge
Office of Administrative Hearings

Exhibit B

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation and Petition to Revoke Probation Against:	)	
MARYANNE PHILLIPS, M.D.	)	Case No. D1-2004-161866
Physician's and Surgeon's Certificate No. A-63753	)	OAH No. 2012060101
Respondent.	)	

DECISION

The Proposed Decision of Roy W. Hewitt, Administrative Law Judge, dated June 26, 2013 is attached hereto. Said decision is hereby amended, pursuant to Government Code section 11517(c)(2)(C), to correct technical or minor changes that do not affect the factual or legal basis of the proposed decision. The proposed decision is amended as follows:

1. Page 1, Case No. 19-2010-211768 is stricken and replaced with Case No. D1-2004-161866.

The Proposed Decision as amended is hereby accepted and adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 16, 2013.

IT IS SO ORDERED July 17, 2013.

MEDICAL BOARD OF CALIFORNIA

By: Reginald Low MD

Reginald Low, M.D., Chair
Panel B

Exhibit C

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation and Petition to Revoke Probation Against:	)	
MARYANNE PHILLIPS, M.D.	)	Case No. D1-2004-161866
Physician's and Surgeon's Certificate No. A-63753	)	OAH No. 2012060101
Respondent.	)	

ORDER CORRECTING DECISION

The Proposed Decision of Roy W. Hewitt, Administrative Law Judge, dated June 26, 2013 is attached hereto. Said decision is hereby amended, pursuant to Government Code section 11518.5(d), to correct technical or minor changes that do not affect the factual or legal basis of the proposed decision. The proposed decision is amended as follows:

1. Page 9, Physician's and Surgeon's Certificate No. A-89141 is stricken and replaced with Physician's and Surgeon's Certificate No. A-63753.

IT IS HEREBY ORDERED that the Physician's and Surgeon's Certificate No. on page 9, under the Order in the above-entitled matter be and hereby amended and corrected nunc pro tunc as of the date of entry.

IT IS SO ORDERED July 30, 2013.

MEDICAL BOARD OF CALIFORNIA

By: Reginald Low MD
Reginald Low, M.D., Chair
Panel B

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

Exhibit D

In the Matter of the Accusation and Petition to Revoke Probation Against:	)	
MARYANNE PHILLIPS, M.D.	)	MBC No. D1-2004-161866
	)	OAH No. 2012060101
Physician's & Surgeon's Certificate No. A-63753	)	**ORDER GRANTING STAY**
	)	(Gov't Code Section 11521)
Respondent	)	

Maryanne Phillips, M.D., has filed a Request for Stay of execution of the Decision in this matter with an effective date of August 16, 2013.

Execution is stayed until **August 26, 2013.**

This stay is granted solely for the purpose of allowing the Board time to review and consider the Petition for Reconsideration.

DATED: August 15, 2013

A. Renee Threadgill
Chief of Enforcement
Medical Board of California

Exhibit E

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation and Petition to Revoke Probation Against: Maryanne Phillips, M.D. Physician's and Surgeon's Certificate No. A-63753 Petitioner	)	Case No. D1-2004-161866

ORDER DENYING PETITION FOR RECONSIDERATION

The Petition filed by Maryanne Phillips, M.D. for the reconsideration of the decision in the above-entitled matter having been read and considered by the Medical Board of California, is hereby denied.

This Decision remains effective at 5:00 p.m. on August 26, 2013.

IT IS SO ORDERED: August 23, 2013

Dev Gnandev MD

Dev Gnandev, M.D., Vice Chair
Panel B

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against MARYANNE D. PHILLIPS, M.D., Respondent.	**Case No. 18-10032-1**

FILED
JUN 10 2019
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, Nevada 89521
(775) 688-2559

SETTLEMENT AGREEMENT

The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board), by and through Donald K. White, Esq., Deputy General Counsel for the Board and attorney for the IC, and Maryanne D. Phillips, M.D. (Respondent), a licensed Physician in Nevada, assisted by her attorney, Kenneth E. Hogan, Esq., of the law firm of Hogan Hulet PLLC, hereby enter into this Settlement Agreement (Agreement) based on the following:[1]

A. Background

1. Respondent is a medical doctor currently licensed (License No. 7635) in active status, with conditions, by the Board pursuant to Chapter 630 of the Nevada Revised Statutes (NRS) and Chapter 630 of the Nevada Administrative Code (NAC) (collectively, the Medical Practice Act), to practice medicine in Nevada since December 21, 1995.

2. On February 9, 2018, in Case No. 18-10032-1, the IC filed a formal Complaint (Complaint) charging Respondent with violating the Medical Practice Act. Specifically, the Complaint alleges: Count I, violation of NRS 630.306(1)(b)(1) (Engaging in Conduct Intended to Deceive); Count II, violation of NRS 630.306(1)(p) (Engaging in Unsafe or Unprofessional

[1] All agreements and admissions made by Respondent are solely for final disposition of this matter and any subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, Respondent's agreements and admissions are not intended or made for any other use, such as in the context of another state or federal government regulatory agency proceeding, state or federal civil or criminal proceeding, any state or federal court proceeding, or any credentialing or privileges matter.

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

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

B. Terms & Conditions

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

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

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

3. Waiver of Rights. In connection with this Agreement, and the associated terms and conditions, Respondent knowingly, willingly and intelligently waives all rights in connection

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C. Respondent's license shall be subject to a term of probation for a period of time not to exceed thirty-six (36) months from the date of the Board's acceptance, adoption and approval of this Agreement (Probationary Period). Respondent must complete the following terms and conditions within the Probationary Period and demonstrate compliance to the good faith satisfaction of the Board within thirty-six (36) months, including but not limited to, payment in full of the Fifteen Thousand Dollars ($15,000.00) stated as a condition below in C(2), and at that time she may petition the Board to lift the probationary status of her license,. If Respondent fails to demonstrate compliance with the terms and conditions of this Agreement within thirty-six (36) months, or otherwise violates the terms of this Agreement or the Medical Practice Act, then the IC shall be authorized to immediately suspend Respondent's license to practice medicine in Nevada pending an Order To Show Cause Hearing on immediate revocation of her license, which hearing will be duly noticed. The following terms and conditions shall apply during Respondent's probationary period:

(1) Respondent shall complete the University of San Diego, Physician Assessment and Competency Evaluation Program (PACE), Competency Assessment, and, if recommended by PACE, the Fitness For Duty (FFD) evaluation, all at Respondent's expense, and pass all of the above to the satisfaction of the Board;

(2) Respondent will pay the costs and expenses incurred in the investigation and prosecution of the above-referenced matter within thirty (30) months of the Board's acceptance, adoption and approval of this Agreement, the current amount being Fifteen Thousand Dollars ($15,000.00), not including any costs that may be necessary to finalize this Agreement. An initial payment of $500.00 will be due within thirty (30) calendar days of the Board's approval of this Agreement. Based on Respondent's current financial circumstances, payment of $500.00 per month will be due on the first day of the month beginning on July 1, 2019, through December 1, 2021, and, if necessary, the first day of each month thereafter until satisfied in full.

(3) Respondent shall take twenty two and one half (22.5) hours of continuing medical education (CME) related to the University of Nevada, Reno School of Medicine

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Nevada, the Board, and each of its members, staff, counsel, investigators, experts, peer reviewers, committees, panels, hearing officers, consultants and agents from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims and demands whatsoever, known and unknown, in law or equity, that Respondent ever had, now has, may have or claim to have, against any or all of the persons, government agencies or entities named in this paragraph arising out of, or by reason of, this investigation, this Agreement or the administration of the case referenced herein.

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

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

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

9. **Effect of Rejection of Agreement by Board**. In the event the Board does not accept, approve and adopt this Agreement, this Agreement shall be null, void and of no force and effect except as to the following agreement regarding adjudications: (1) Respondent agrees that, notwithstanding rejection of this Agreement by the Board, nothing contained in this Agreement and nothing that occurs pursuant to efforts of the IC to seek the Board's acceptance of this

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

Dated this 1 day of April, 2019.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

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

Dated this _____ day of _____, 2019.

Hogan Hulet PLLC

By: _____
Kenneth E. Hogan, Esq.,
Attorney for Respondent

Dated this _____ day of _____, 2019.

_____
Maryanne D. Phillips, M.D., Respondent

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, Nevada 89521
(775) 688-2559

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against Maryanne D. Phillips, M.D., Respondent.	**Case No. 18-10032-1**

FILED
FEB - 9 2018
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By: _____

COMPLAINT

The Investigative Committee[1] (IC) of the Nevada State Board of Medical Examiners (Board) hereby issues this formal Complaint (Complaint) against Maryanne D. Phillips, M.D. (Respondent), a licensed physician in Nevada. After investigating this matter, the IC has a reasonable basis to believe that Respondent has violated provisions of Nevada Revised Statutes (NRS) chapter 630 and Nevada Administrative Code (NAC) chapter 630 (collectively Medical Practice Act). The IC alleges the following facts:

1. Respondent is currently licensed in Nevada in active status with conditions (License No. 7635). She has been licensed by the Board since December 21, 1995.

2. Respondent's license is currently in active status with certain conditions placed on the license pursuant to an order dated December 8, 2017, which removed the probationary status on her license to practice medicine, restored the license to active status, and placed all remaining conditions and restrictions associated with a Settlement Agreement dated September 9, 2016, on her license. Previously, Respondent's license was active-probationary status pursuant to the September 9, 2016 Settlement Agreement between the Respondent and the Board. At the regularly scheduled December 1, 2017 Board Meeting, at which Respondent appeared and requested that

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[1] The Investigative Committee of the Nevada State Board of Medical Examiners at the time the filing of this Complaint was approved, was composed of Board members Wayne Hardwick, M.D., Chairman, Theodore B. Berndt, M.D., member, and Mr. M. Neil Duxbury, public member.

Suite 101, Henderson, Nevada 89074.

9. The Lease Agreement was signed by Donald Kinsman on behalf of the Research and Wellness Center LLC.

10. Upon information and belief, Donald Kinsman is the spouse of Maryanne Phillips.

11. Contact names for Research and Wellness Center LLC were listed on the Lease Agreement as Mari Elias and Blas Elias.

12. The Lease Agreement was personally guaranteed by MaryAnne Elias.

13. The signature of MaryAnne Elias, aka Maryanne Phillips, on the Guaranty was notarized, and she provided a copy of her driver's license. The name on the Nevada driver's license is Maryanne Phillips Elias.

14. A cashier's check was provided with the Lease Agreement. On the Remitter (Purchased by) line, the cashier's check states "Mary Anne Phillips Elias Wellness Ctr."

15. On or about January 11, 2016, the Lease Agreement between Research and Wellness Center LLC and Marlin A, LLC, was amended. The amendment changed the guarantors from Donald Kinsman and Mary Anne Elias to Donald Kinsman, Mary Anne Elias, and David Memmoli.

16. Maryanne Phillips previously practiced medicine at 2649 Wigwam Parkway, Suite 101, Henderson, Nevada 89074.

17. Maryanne Phillips-Elias, MD is listed on the WebMD website as having a practice with Daniel F. Royal, D.O. at 9065 S. Pecos Road, Suite 250, Henderson, Nevada 89074.

18. Dr. Maryanne Phillips was listed on letterhead for Comprehensive Pain Management and Wellness, located at 9065 S. Pecos Road, Suite 250, Henderson, Nevada 89074, from November 2013 through September 2015.

19. Respondent treated patients as late as December of 2014.

20. From on or around November 2015 through May 2016, one or more members of Respondent's staff and/or independent contractors witnessed Respondent review patients' charts.

21. From on or around November 2015 through May 2016, one or more members of Respondent's staff and/or independent contractors witnessed Respondent remove progress notes

determined that Patient A was exhibiting drug-seeking behaviors and refused to prescribe Oxycodone.

32. Patient A stated that he had wasted his time and left Respondent's practice.

33. On or about February 15, 2016, Donald Kinsman confronted the advanced practice registered nurse about why he had not prescribed Oxycodone to Patient A. The advanced practice registered nurse responded that Patient A had gone without a prescription for two weeks, which demonstrated he did not really need pain medication. He indicated that in his experience, patients in pain will typically try any pain management regimen in hopes of obtaining pain relief, rather than go without any pain medication at all because it is not Oxycodone.

34. On or about March 1, 2016, a member of Respondent's staff witnessed Respondent remove the advanced practice registered nurse's note from the examination of Patient A that took place on or about February 15, 2016, and replace that day's note with a note Respondent then wrote herself.

35. Upon information and belief, Respondent has signed off the chart notes entered by the advanced practice registered nurse for Patient A.

36. On or about May 9, 2017, the IC issued an Order to Produce Medical Records regarding Patient A to Respondent. The Order required Respondent to produce the records within 10 days of service.

37. Respondent previously provided health care records for patients of Research and Wellness Center LLC; however, Respondent has not complied with the May 9, 2017 Order to Produce Medical Records.

38. On or about May 17, 2017, Respondent sent a message by electronic mail to the IC's investigative staff that she vaguely remembered a patient by the name of the patient requested, but was in California most of the time and had not treated a pain patient since 2014.

39. In response to a question from investigative staff as to who currently was the custodian of records for Research and Wellness Center LLC, on or about May 20, 2017, Respondent sent a message by electronic mail to investigative staff that she was no longer the custodian of records and that Research and Wellness Center LLC was no longer in existence.

patient I ever saw for Dr Nagy is. I would suggest you check the PNP and see who saw them three years ago and contact them?

If you need a copy of my previous contract with Dr Nagy or the state information on Research and Wellness LLC I will provide it. I did neuroanesthesia for Dr Nagy and he decided he wanted a private pain clinic to refer his surgical patients to but it didn't work out. I apologize for any problems his former employees might have given you but like I said I had no control over him or them I just saw patients!

41. To date, Respondent has not provided the information requested in the Order to Produce Medical Records.

Count I:

NRS 630.306(1)(b)(1): Engaging in Conduct Intended to Deceive

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

43. NRS 630.306(1)(b)(1) provides that engaging in any conduct which is intended to deceive is grounds for initiating disciplinary action.

44. Respondent denied to the IC ever having used the name of Marianne Elias, though she has used various forms of the name Maryanne Phillips, MaryAnne Phillips, Mary Anne Phillips, Maryanne Phillips-Elias, Mary Anne Phillips Elias, Marianne Elias, Mari Tiffany Phillips-Elias, Mari Elias and Maryanne Elias on her driver's license, lease agreement, guaranty of lease agreement, list of officers for Research and Wellness Center LLC, emails, and on websites advertising her services.

45. Respondent denied to the IC ever having been the medical director of Research and Wellness Center LLC or Hormones Center of Nevada, though a Marianne Elias is listed as the manager of Research and Wellness Center LLC and that entity signed a lease agreement, which MaryAnne Elias personally guaranteed.

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53. NRS 630.306(1)(p) provides that engaging in any act that is unsafe or unprofessional conduct in accordance with regulations adopted by the Board is grounds for initiating disciplinary action.

54. NAC 630.230(1)(a) prohibits falsifying records of health care.

55. Respondent falsified records of health care by destroying notes written by an advanced practice registered nurse in patients' charts.

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

Count III:

NRS 630.3062(2): Altering Medical Records

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

58. NRS 630.3062(2) provides that altering medical records of a patient is grounds for disciplinary action.

59. Respondent altered the medical record of Patient A by destroying a medical note that an advanced practice registered nurse had included in Patient A's file, and/or replacing that note with one she wrote herself.

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

Count IV:

NRS 630.3062(2): Altering Medical Records

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

62. NRS 630.3062(2) provides that altering medical records of a patient is grounds for disciplinary action.

63. Respondent altered patients' medical records by removing medical notes and/or information from patients' charts.

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Chronic Pain, adopted by reference in NAC 630.187, brings the medical profession into disrepute.

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

Count VII:

NRS 630.304(6): Attempting by Way of Intimidation, Coercion or Deception, to Obtain or Retain a Patient or to Discourage the Use of a Second Opinion

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

74. NRS 630.304(6) provides that attempting directly or indirectly, by way of intimidation, coercion or deception, to obtain or retain a patient or to discourage the use of a second opinion is grounds for disciplinary action.

75. Respondent coerced and/or intimidated an advanced practice registered nurse working in her office to prescribe opioids to Patient A in order to obtain that Patient, who would supposedly bring in more patients.

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

Count VIII:

NRS 630.305(1)(a): Receiving From Any Person Compensation Which is Intended or Tends to Influence the Physician's Objective Evaluation or Treatment of a Patient

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

78. NRS 630.305(1)(a) provides that directly or indirectly receiving from any person, corporation or other business organization any fee, commission, rebate or other form of compensation which is intended or tends to influence the physician's objective evaluation or treatment of a patient is grounds for disciplinary action.

79. Respondent, in order to receive compensation from Patient A, exerted pressure, coercion and/or intimidation upon an advanced practice registered nurse working in her office to prescribe opioids to Patient A.

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

WHEREFORE, the IC prays that the Board:

1. Give Respondent notice of the charges set forth in this Complaint;

2. Give Respondent notice that Respondent may file an answer to the Complaint as set forth in NRS 630.339(2) within 20 days of service of the Complaint;

3. Set a time and place for a formal hearing after holding an Early Case Conference pursuant to NRS 630.339(3);

4. Determine the sanctions it will impose if it finds Respondent violated the Medical Practice Act;

5. Make, issue, and serve on Respondent, in writing, its findings of fact, conclusions of law and order, which shall include the sanctions, if imposed; and

6. Take such other and further action as may be just and proper in this matter.

DATED this 9 day of February, 2018.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____
Robert Kilroy, Esq., General Counsel
Jasmine K. Mehta, Esq., Deputy Executive Director
Attorneys for the Investigative Committee

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of the License of	)	**Case Nos.: 12-10032-1 and 14-10032-1**
MARYANNE PHILLIPS, M.D.,	)	**FILED**
Licensee.	)	DEC 08 2017
	)	NEVADA STATE BOARD OF MEDICAL EXAMINERS By:

ORDER MODIFYING PREVIOUSLY APPROVED SETTLEMENT AGREEMENT

Maryanne Phillips, M.D. (Dr. Phillips), License No. 7635, personally appeared in Las Vegas, Nevada before the Nevada State Board of Medical Examiners (Board) at its regularly scheduled meeting on December 1, 2017, requesting termination of the probationary terms on her license to practice medicine in the state of Nevada as set forth in the Settlement Agreement, which was approved by the Board on September 9, 2016. After considering the request and speaking with Dr. Phillips, the Board enters the following order:

IT IS HEREBY ORDERED that the probationary status attached to Dr. Phillips' license to practice medicine in the state of Nevada is hereby removed, and her license is restored to active status with all remaining conditions and restrictions associated with the September 9, 2016 Settlement Agreement still in full force and effect. The terms of Paragraph 5(A) of the September 9, 2016 Settlement Agreement are incorporated herein by reference as conditions upon her license for 36 months from September 9, 2016. The Settlement Agreement is attached hereto as Exhibit A.

Dated this 7th day of December 2017.

NEVADA STATE BOARD OF MEDICAL EXAMINERS

D Prabhu Rachakonda M.D.

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

LV194756

ORIGINAL

BEFORE THE BOARD OF MEDICAL EXAMINERS

OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint Against MARYANNE D. PHILLIPS, M.D., Respondent.	Case Nos.: 12-10032-1 & 14-10032-1

FILED

SEP 09 2016

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____

SETTLEMENT AGREEMENT

The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board) and Maryanne D. Phillips, M.D. (Respondent), a licensed physician in Nevada, represented by John A. Hunt, Esq. of the law firm Morris Polich & Purdy, LLP, hereby enter into this Settlement Agreement (Agreement) based on the following:[1]

A. Background

1. Respondent is a physician licensed by the Board, pursuant to Chapter 630 of the Nevada Revised Statutes (NRS) and Chapter 630 of the Nevada Administrative Code (NAC) (collectively, the Medical Practice Act), to practice medicine in Nevada since 1995 (License No. 7635).

2. On November 5, 2012, in Case No. 12-10032-1, the IC filed a formal Complaint (Complaint – No. 12-10032-1) charging Respondent with violations of the Medical Practice Act. Specifically, Complaint - No. 12-10032-1 alleges three counts. Count I alleges a violation of

[1] All agreements and admissions made by Respondent are solely for final disposition of this matter and any subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, Respondent's agreements and admissions are not intended or made for any other use, such as in the context of another state or federal government regulatory agency proceeding, state or federal civil or criminal proceeding, any state or federal court proceeding, or any credentialing or privileges matter.

conduct that the Board has determined is a violation of the standards of practice established by regulation of the Board.

5. Respondent was properly served with a copy of Complaint - No. 12-10032-1and with a copy of Complaint – No. 14-10032-1, and has reviewed both Complaints, understands both Complaints, and has had the opportunity to consult with competent counsel concerning the nature and significance of the Complaints.

6. Respondent is hereby advised of her rights regarding this administrative matter, and of her opportunity to defend against the allegations in Complaint - No. 12-10032-1and in Complaint – No. 14-10032-1. Specifically, Respondent has certain rights in this administrative matter as set out by the United States Constitution, the Nevada Constitution, the Medical Practice Act, and the Nevada Administrative Procedure Act (APA), which is contained in NRS Chapter 233B. These rights include the right to a formal hearing on the allegations in Complaint - No. 12-10032-1and in Complaint – No. 14-10032-1, the right to representation by counsel, at her own expense, in the preparation and presentation of her defense, the right to confront and cross-examine the witnesses and evidence against her, the right to written findings of fact, conclusions of law, and order reflecting the final decision of the Board, and the right to judicial review of the Board's order, if the decision is adverse to her.

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

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

review.

4. **Acknowledgement of Reasonable Basis to Proceed**. Respondent acknowledges that the IC believes it has a reasonable basis to allege that Respondent engaged in conduct that is grounds for discipline pursuant to the Medical Practice Act. The Board acknowledges Respondent is not admitting that the Board's claims/counts as alleged in the Complaints have merit and Respondent is agreeing to resolve this matter to avoid the costs of hearing and potential subsequent litigation. Respondent asserts if this matter were to proceed to hearing, she has evidence, witnesses, expert witness(es), and defenses to the counts/claims alleged in Complaint - No. 12-10032-1and Complaint – No. 14-10032-1, but for the purposes of resolving the matter and for no other purpose, Respondent waives the presentation of evidence, witnesses, expert witnesses, and defenses in order to effectuate this Agreement.

5. **Consent to Entry of Order**. In order to resolve Complaint - No. 12-10032-1 and Complaint - No. 14-10032-1pending against Respondent without incurring any further costs or the expense associated with a hearing, Respondent hereby agrees that the Board may issue an order finding that Respondent engaged in conduct that is grounds for discipline pursuant to the Medical Practice Act, to wit: one count of disciplinary action taken by another state, a violation of NRS 630.301(3), as outlined in Count I of Complaint No. - 12-10032-1 and one count of malpractice, a violation of NRS 630.301(4), as outlined in Count II of Complaint - No. 14-10032-1. Accordingly, the following terms and conditions are hereby agreed upon:

A. Respondent agrees to allow her license to practice medicine in the state of Nevada to be placed on probation for a period of 36 months from the date of the Board's acceptance, adoption and approval of this Agreement (probationary period). The following terms and conditions shall apply during Respondent's probationary period:

1. During the probationary period, Respondent shall not prescribe any Class II - IV medications. If Respondent obtains a medical license coupled with the authority to prescribe Class II - IV medications in another jurisdiction, the Board will not object to Respondent prescribing Class II - IV medications in the jurisdiction in which Respondent obtained a medical license coupled with the

6. During the probationary period, Respondent shall not be employed in any manner with a pain management clinic/practice.

7. During the probationary period, Respondent shall not have any business interest/ownership in any pain management clinic/practice.

8. During the probationary period, Respondent shall not work at any location where pain management is practiced.

9. During the probationary period, Respondent shall not supervise any physician assistants.

10. During the probationary period, Respondent shall provide the Board with the physical address of each location of employment. If an address of employment changes, Respondent shall notify the Board in writing of the new physical address within five business days of the change.

11. During the probationary period, Respondent shall comply with all laws related to the practice of allopathic medicine, whether state or federal, whether statutory or regulatory, and whether contained in NRS and NAC chapters 629, 630, 453, 454, 585 and 639.

12. Respondent shall allow Board investigators to enter each location where Respondent is practicing medicine at any time during each practice location's normal operating hours, including any room or area therein, to inspect the practice and review any or all of her patient and practice records.

B. Respondent may petition the Board before the probationary period has expired to request that the terms of this Agreement be modified or that the probationary period be terminated before the 36-month probationary period referenced above expires.

C. With regards to Complaint - No. 12-10032-1, Respondent shall pay a fine of five hundred and xx/100 dollars ($500.00) for Count I within 30 days of the Board's acceptance, adoption and approval of this Agreement.

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any or all of the persons, government agencies, or entities named in this paragraph arising out of, or by reason of, this investigation, this Agreement, or the administration of the cases referenced herein.

7. **Procedure for Adoption of Agreement**. The IC and counsel for the IC shall recommend approval and adoption of the terms and conditions of this Agreement by the Board in resolution of Complaint - No. 12-10032-1and Complaint – No. 14-10032-1. In the course of seeking Board acceptance, approval, and adoption of this Agreement, counsel for the IC may communicate directly with the Board staff and the adjudicating members of the Board.

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

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

9. **Effect of Rejection of Agreement by Board**. In the event the Board does not accept, approve, and adopt this Agreement, this Agreement shall be null, void, and of no force and effect except as to the following agreement regarding adjudications: (1) Respondent agrees that, notwithstanding rejection of this Agreement by the Board, nothing contained in this Agreement and nothing that occurs pursuant to efforts of the IC to seek the Board's acceptance of this Agreement shall disqualify any member of the adjudicating panel of the Board from considering Complaint - No. 12-10032-1and Complaint - No. 14-10032-1and from participating in disciplinary proceedings against Respondent, including adjudication of the cases; and (2) Respondent further agrees that she shall not seek to disqualify any such member absent evidence of bad faith.

10. **Binding Effect**. If approved by the Board, Respondent understands that this

IT IS HEREBY ORDERED that the foregoing Settlement Agreement is approved and accepted by the Nevada State Board of Medical Examiners on the 9th day of September 2016, with the final total amount of costs due of $8,927.78.

Michael J. Eischer, M.D., President
NEVADA STATE BOARD OF MEDICAL EXAMINERS

acetaminophen	heparin	nitroprusside 50 mg injection
ademosine	heparin sodium	norepinephrine
Adenosine 3 mg/ml 2 ml vial	hetastach 6% 500 ml drip	ocular lubricant
albuterol	hydralazine	ondansetron
albuterol hfa	hydralazine hcl	opthalmic lubricant
alfentanil	hydrocortisone 100mg/2mL	peinephrine PFS
alfentanyl	hydrocortisone 250mg/2mL	phenylephrine 100mcg/1mL
aminocaproic acid	hydrocortisone pf	phenylephrine 10mcg/1mL
amiodarone	hydromorphone	phenylephrine hcl
atracurium	iopamidol	physostigmine
atropine	ketamine	promethazine hcl
atropine sulfate	ketorolac	propofol 10mg/1mL
benzocaine/tetracaine topical	ketorolac tromethamine	propofol 200mg/20mL
bivalirudin	labetalol 5 mg/ml 4ml syringe	propofol/benzyl
bupivacaine 0.25% epi 1:200K	lidocaine 1% epi 1:100,000	propranolol
buplvacaine	lidocaine 1% MPF	protamine 10mg/1mL
calcium chloride	lidocaine 1% pf	protamine 50mg/5mL
calcium chloride 10%	lidocaine 2%	protamine sulfate
cefazolin	lidocaine 2% 100mg/5mL	rocuronium
cefazolin sodium	lidocaine 2% 20 mg/ml 5ml sdv	sodium bicarbonate
cefoxitin	lidocaine 2% 5 ml jelly	sodium chloride
dexamethasone 10mg/1mL	lidocaine 2% MPF	sodium chloride 10%
dexamethasone 4mg/1mL	lidocaine 2% topical	sterile water
dexamethasone na phosphate	lidocaine 5% topical	succinylcholine
dextrose	lidocaine hcl 2%	succinylcholine chloride
dextrose 50% 50 ml syringe	lta kit 4% 4 ml top soln	sufentanil
digoxin	meperidine	sufentanil citrate
diltiazem	methpredinsolone sodium succ	triamcinolone
diphenhydramine	methyiprednisole sod succ	vasopressin
diphenhydramine hcl	methylprednisolone NA succ	vecuronium
dobutamine	metoclopramide	verapamil
doxapram	metoprolol	water for injection, fliptop
edrophonium/atropine	midazolam	
ephedrine 50mg/1mL	midazolam 2 mg/2mL	
ephedrine 5mg/1mL	midazolam 5mg/5mL	
ephedrine sulfate	milrinone 20mg/100mL	
epinephrine	milrinone 20mg/20mL	
epinephrine 10 ml bristojet	milrinone lactate iv	
esmolol	morphine	
esmolol hcl	morphine 10mg/1mL	
etomidate	morphine PF 10mg/10mL	
famotidine	naloxone	
fentanyl	naloxone 0.4 mg/1 ml inj.	
flumazenil	neostigmine	
furosemide	neostigmine 10 mg/10 ml vial	
gentamycin sulfate	nitroglycerin	
glycopyrrolate	nitroglycerin 2% ud	