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Office
of the
General
Counsel
75 Nevada Board
of Medical
Examiners
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ORIGINAL

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

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In The Matter of Charges and
Complaint Against
FARRUKH IMTIAZ, M.D.,
Respondent.

Case No. 08-19156-1

FILED

AUG 11 2009

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

SETTLEMENT, WAIVER AND CONSENT AGREEMENT

THIS AGREEMENT is entered into by and between the Investigative Committee (IC) of the Nevada State Board of Medical Examiners (the Board) composed of Charles N. Held, M.D., Chairman, Jean Stoess, M.A., member, and Benjamin Rodriguez, M.D., member, by and through counsel Lyn E. Beggs, Esq., and Farrukh Imtiaz, M.D., by and through his counsel Arthur Tuverson, Esq., as follows:

WHEREAS, on May 28, 2008, the Board's IC filed a formal complaint in the above referenced matter charging Dr. Imtiaz with engaging in conduct that is grounds for discipline pursuant to the Medical Practice Act (NRS Chapter 630) to wit: one count of malpractice; and

WHEREAS, Dr. Imtiaz has received and reviewed a copy of the complaint, understands it, and has consulted with competent counsel Arthur Tuverson, Esq., concerning the nature and significance of the complaint, and Dr. Imtiaz is fully advised concerning his rights and defenses to the complaint as well as the possible sanctions that may be imposed if the Board finds and concludes that he has engaged in conduct that is grounds for discipline pursuant to the Medical Practice Act; and

WHEREAS, Dr. Imtiaz understands and agrees that he has certain rights under the United States Constitution and the Constitution of the state of Nevada, as well as under the Medical Practice Act (NRS Chapter 630) and the Nevada Administrative Procedures Act (NRS Chapter 233B), including but not limited to the right to a formal hearing on the charges against him, the right to representation by counsel in the preparation and presentation of his defense, the right to

1 confrontation and cross-examination of witnesses against him, the right to present evidence and
2 witnesses on his own behalf, the right to written findings, conclusions and order regarding a final
3 decision by the Board, and the right to judicial review of any final decision by the Board that is
4 adverse to him; and

5 **WHEREAS**, provided this Agreement is approved by the Board, Dr. Imtiaz agrees to waive
6 all of his rights under the United States Constitution, the Constitution of the state of Nevada, the
7 Medical Practice Act, and the Nevada Administrative Procedures Act, including but not limited to
8 the right to a hearing on the charges and written findings of fact, conclusions of law and order, and
9 he agrees to settle and resolve this matter of the complaint filed against him by way of, and in
10 accordance with, this Settlement, Waiver and Consent Agreement; and

11 **WHEREAS**, Dr. Imtiaz understands and agrees that this Agreement is entered into by and
12 between himself and the Board's Investigative Committee, and not with the Board, but that the
13 Investigative Committee will present this Agreement to the Board for consideration in open session
14 at a regularly-scheduled quarterly meeting, duly noticed, and that the Investigative Committee shall
15 advocate approval of this Agreement by the Board, but that the Board has the right to decide in its
16 own discretion whether or not to approve this Agreement; and

17 **WHEREAS**, Dr. Imtiaz and the Investigative Committee each understand and agree that if
18 the Board approves the terms, covenants and conditions of this Agreement, then the terms,
19 covenants and conditions enumerated below shall be binding and enforceable upon Dr. Imtiaz and
20 the Board's Investigative Committee; and

21 **WHEREAS**, Dr. Imtiaz has reviewed, understands and has discussed with counsel, all the
22 relevant facts and circumstances of this matter and after due consideration, concedes that he
23 committed malpractice as set forth in the complaint.

24 **NOW THEREFORE**, in order to resolve the above-captioned case and charges brought
25 against Dr. Imtiaz by the Board's Investigative Committee in said matter, Dr. Imtiaz and the
26 Investigative Committee hereby agree to the following terms, covenants and conditions:

27 1. **Jurisdiction**. Dr. Imtiaz is, and at all times mentioned in the complaint filed in the
28 above-captioned matter was, a physician licensed to practice medicine in the state of Nevada subject

1 to the jurisdiction of the Board to hear and adjudicate charges of violations of the Medical
2 Practice Act (NRS 630), and to impose sanctions as provided by the Act.

3 2. **Representation by Counsel.** Dr. Imtiaz is represented by counsel, Arthur Tuverson,
4 Esq., whom Dr. Imtiaz covenants and agrees is fully capable, competent, and fully advised in these
5 circumstances, and Dr. Imtiaz further covenants and agrees that he enters into this Agreement
6 knowingly, willingly, and intelligently after full consultation with and upon the advice of counsel.

7 3. **Waiver of Rights.** Dr. Imtiaz covenants and agrees that he enters into this
8 Agreement knowingly, willingly, and intelligently with knowledge that he may consult with counsel
9 prior to entering into this Agreement. In connection with this Agreement, and the terms, covenants
10 and conditions contained herein, Dr. Imtiaz knowingly, willingly and intelligently, with the advice
11 of above identified counsel, waives all rights arising under or pursuant to the United States
12 Constitution, the Constitution of the state of Nevada, NRS Chapter 630 and NRS Chapter 233B that
13 may be available to him or that may apply to him in connection with the proceeding regarding the
14 complaint filed herein, the defense of said complaint and the adjudication of the charges in said
15 complaint, and Dr. Imtiaz further agrees that the matter of the disciplinary action commenced by the
16 filing of the complaint herein may be settled and resolved in accordance with this Agreement
17 without a hearing or any further proceeding, and without the right to judicial review. In the event
18 this Agreement is not approved by the Board, this Agreement shall have no force and effect and
19 Dr. Imtiaz shall have all rights arising under or pursuant to the United States Constitution, the
20 Constitution of the State of Nevada, NRS Chapter 630 and NRS Chapter 233B that may be available
21 to him or that may apply to him in connection with the proceeding on the complaint filed herein.

22 4. **Acknowledgement of Reasonable Basis to Proceed.** Dr. Imtiaz covenants and
23 agrees that the Board's Investigative Committee has a reasonable basis to believe that he violated
24 one or more provisions of the Medical Practice Act.

25 5. **Consent to Entry of Order.** In order to resolve the matter of these disciplinary
26 proceedings pending against him without any further costs and expense of providing a defense to the
27 complaint, or to an amended complaint, Dr. Imtiaz hereby agrees, and does not contest, that an order
28 may be entered herein by the Board finding that he engaged in conduct that is grounds for discipline

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pursuant to the Medical Practice Act to wit: one count of malpractice as set forth in the complaint, a violation of NRS 630.301(4); and ordering that Dr. Imtiaz shall be required to pay a \$500 fine to be paid within sixty (60) days of the acceptance, adoption and approval of this Agreement by the Board. Dr. Imtiaz shall also be ordered to complete six (6) hours of continuing medical education (CME) regarding his specialty of practice. Said CME credit to be pre-approved by the Investigative Committee Chair and to be completed within six (6) months of the acceptance, adoption and approval of this Agreement by the Board. Said CME shall be in addition to any other continuing medical education required as a condition of licensure. Finally, Dr. Imtiaz shall be ordered to reimburse the Board reasonable costs and expenses incurred in the investigation and prosecution of this case in an agreed upon amount of \$4000 to be paid to the Nevada State Board of Medical Examiners within sixty (60) days of the acceptance, adoption and approval of this Agreement by the Board.

6. **Procedure for Adoption of Agreement.** The Investigative Committee and counsel for the Investigative Committee shall recommend approval and adoption of the terms, covenants and conditions contained herein by the Board in resolution of the disciplinary proceedings pending herein against Dr. Imtiaz pursuant to the complaint. In the course of seeking Board approval, adoption and/or acceptance of this Agreement, counsel for the Investigative Committee may communicate directly with the Board staff and members of the panel of the Board who would adjudicate this case if it were to go to hearing. Dr. Imtiaz covenants and agrees that such contacts and communication may be made or conducted ex parte, without notice or opportunity to be heard on his part or on the part of his counsel, 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 the allegation therein, any and all evidence that may exist in support of the complaint, and any and all information of every nature whatsoever related to the complaint against him. The IC and its counsel agree that Dr. Imtiaz and his counsel may appear at the Board meeting where this Agreement is discussed in order to respond to any and all questions that may be addressed to the IC or its counsel at such meeting.

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7. **Board Approval Required.** This Agreement will be placed on the next available Agenda of a regularly-scheduled and duly-noticed quarterly Board meeting. It is expressly understood that this Agreement will only become effective if the Board approves the recommendation of the Investigative Committee for acceptance.

8. **Effect of Acceptance of Agreement by Board.** In the event the Board approves, accepts and adopts the terms, covenants and conditions set out in this Agreement, counsel for the Investigative Committee will cause to be entered herein the Board's Order, accepting, adopting and approving this Settlement, Waiver and Consent Agreement, ordering full compliance with the terms herein and ordering that this case be closed, subject to the provisions in Section 5.

9. **Effect of Rejection of Agreement by Board.** In the event the Board does not approve, accept and adopt the terms, covenants and conditions set out in this Agreement, this Agreement shall be null, void, and of no further force and effect except as to the following covenant and agreement regarding disqualification of adjudicating Board panel members. Dr. Imtiaz agrees that, notwithstanding rejection of this Agreement by the Board, nothing contained herein and nothing that occurs pursuant to efforts of the Investigative Committee or its counsel to seek acceptance and adoption of this Agreement by the Board shall disqualify any member of the adjudicating panel of the Board from considering the charges against him and participating in the disciplinary proceedings in any role, including adjudication of the case, and Dr. Imtiaz further agrees that he shall not seek to disqualify any such member absent evidence of bad faith.

10. **Release From Liability.** In execution of this Agreement, Dr. Imtiaz, for himself, his executors, successors and assigns, hereby releases and forever discharges the state of Nevada, the Board, the Nevada Attorney General, and each of their members, agents and employees in their representative capacities, and in their individual capacities absent evidence of bad faith, 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 Dr. Imtiaz ever had, now has, may have or claim to have, against any or all of the persons or entities named in this paragraph arising out of or by reason of this investigation, this disciplinary action, this settlement

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or its administration, in connection with the complaint. The Investigative Committee hereby agrees to accept this Agreement in full settlement of all claims related to the complaint, with the understanding that the final decision rests with the Board.

11. **Binding Effect.** Dr. Imtiaz covenants and agrees that this Agreement is a binding and enforceable contract upon him and the Board's Investigative Committee, which contract may be enforced in a court or tribunal having jurisdiction.

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

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

14. **Failure to comply with terms.** In the event the Board enters its Order approving this Agreement, should Dr. Imtiaz fail to comply with the terms recited herein, the Board would then have grounds, after notice and a hearing, to take disciplinary action against him for his violation of an Order of the Board in accordance with NRS 630.3065(2)(a).

Dated this 15 day of June of 2009.

Dated this 15 day of June, 2009.

By: [Signature]
Lyn E. Beggs, Esq.
General Counsel and Attorney for
the Investigative Committee

By: [Signature]
Arthur Tuverson, Esq.
Attorney for Respondent

UNDERSTOOD AND AGREED:

[Signature]
Farrukh Imtiaz, Respondent

Dated this 3 day of JUNE, 2009

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
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IT IS HEREBY ORDERED that the foregoing Settlement, Waiver and Consent Agreement is approved and accepted by the Nevada State Board of Medical Examiners on the 7th day of August 2009, with the final total amount of costs due of \$4,000.00.



RENEE WEST, Secretary-Treasurer
NEVADA STATE BOARD OF MEDICAL EXAMINERS