

ORIGINAL

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

In the Matter of Charges and Complaint Against MARIBEL MONROE, M.D., Respondent.

Case No. 08-12142-1

FILED

AUG 11 2009

NEVADA STATE BOARD OF MEDICAL EXAMINERS

SETTLEMENT, WAIVER AND CONSENT AGREEMENT

THIS AGREEMENT is hereby 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 J. Rodriguez, M.D., member by and through IC counsel, Edward O. Cousineau, and Maribel Monroe, M.D. (Respondent), as follows:

WHEREAS, on or about August 4, 2008, the IC of the Board filed a formal complaint in the above-referenced matter, charging Respondent with violations of the Medical Practice Act (NRS Chapter 630), to wit: malpractice, defined as the failure to use the reasonable knowledge, skill and expertise ordinarily used in similar circumstances, and a violation of NRS 630.301(4).

WHEREAS, Respondent has received a copy of the Complaint, reviewed it, understands the nature and significance of the Complaint, and Respondent is fully advised concerning her rights and defenses to the Complaint, as well as the possible sanctions that may be imposed if the Board finds and concludes that she has violated one or more provisions of the Medical Practice Act; and

WHEREAS, Respondent 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 her, the right to representation by counsel in the preparation and presentation of her defense, the right to confrontation and cross-examination of witnesses against her, the right to present evidence and

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1 Practice Act (NRS Chapter 630) and the Nevada Administrative Procedures Act (NRS Chapter
2 233B), including but not limited to the right to a formal hearing on the charges against her, the right
3 to representation by counsel in the preparation and presentation of her defense, the right to
4 confrontation and cross-examination of witnesses against her, the right to present evidence and
5 witnesses on her own behalf, the right to written findings, conclusions and order regarding a final
6 decision by the Board, and the right to judicial review of any final decision by the Board that is
7 adverse to her; and

8 **WHEREAS**, provided this Agreement is approved by the Board, Respondent agrees to
9 waive all of her rights under the United States Constitution, the Constitution of the state of Nevada,
10 the Medical Practice Act, and the Nevada Administrative Procedures Act, including but not limited
11 to the right to a hearing on the charges and written findings of fact, conclusions of law and order,
12 and she agrees to settle and resolve this matter of the formal complaint against her by way of, and in
13 accordance with, this Settlement, Waiver and Consent Agreement; and

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

20 **WHEREAS**, Respondent and the IC each understand and agree that if the Board approves
21 the terms, covenants and conditions of this Agreement, then the terms, covenants and conditions
22 enumerated below shall be binding and enforceable upon Respondent and the Board's IC; and

23 **WHEREAS**, Respondent has reviewed and understands all the relevant facts and
24 circumstances of this matter;

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

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1 1. **Jurisdiction.** Respondent is, and at all times mentioned in the complaint filed in the
2 above-captioned matter was, a physician licensed to practice medicine in the state of Nevada subject
3 to the jurisdiction of the Board to hear and adjudicate charges of violations of the Medical
4 Practice Act (NRS 630), and to impose sanctions as provided by the Act.

5 2. **Representation by Counsel.** Respondent is represented by Maria Nutile, Esq.
6 Respondent acknowledges and agrees that she enters into this Agreement knowingly, willingly,
7 and intelligently after full consultation with counsel.

8 3. **Waiver of Rights.** Respondent covenants and agrees that she waives all rights
9 arising under or pursuant to the United States Constitution, the Constitution of the state of Nevada,
10 NRS Chapter 630 and NRS Chapter 233B that may be available to her or that may apply to her in
11 connection with the proceeding on the complaint filed herein, the defense of said complaint and the
12 adjudication of the charges in said complaint, and Respondent further agrees that the matter of the
13 disciplinary action commenced by complaint herein may be settled and resolved in accordance with
14 this Agreement without a hearing or any further proceeding, and without the right to judicial review.
15 In the event this Agreement is not approved by the Board, this Agreement shall have no force and
16 effect and Respondent shall have all rights arising under or pursuant to the United States
17 Constitution, the Constitution of the State of Nevada, NRS Chapter 630 and NRS Chapter 233B that
18 may be available to her or that may apply to her in connection with the proceeding on the
19 Complaint.

20 4. **Acknowledgement of Reasonable Basis to Proceed.** Respondent covenants and
21 agrees that the Board's IC has a reasonable basis to believe that Respondent violated one or more
22 provisions of the Medical Practice Act.

23 5. **Consent to Entry of Order.** In order to resolve the matter of these disciplinary
24 proceedings pending against her without any further cost and expense of providing a defense to the
25 Complaint and in recognition that Respondent has previously participated in significant remedial
26 training to address the events at issue in the underlying complaint, Respondent hereby agrees that an
27 order may be entered herein by the Board against her finding that Respondent has violated the
28 Medical Practice Act to wit: that in treating the patient referenced in the underlying Complaint filed

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1 by the IC, Respondent failed to use the reasonable knowledge, skill and expertise ordinarily used
2 in similar circumstances, and therefore a violation of NRS 630.301(4), that Respondent shall be
3 publicly reprimanded, and that Respondent shall reimburse the Board the reasonable costs and
4 expenses incurred in the investigation and prosecution of this case in the current amount of
5 \$4,645.73, plus any additional costs that may be accrued subsequent in the disposition of this
6 matter. The aforementioned costs are to be paid to the Nevada State Board of Medical
7 Examiners within ninety (90) days of the acceptance, adoption and approval of this Agreement
8 by the Board. A final accounting of the additional costs will be provided to Respondent in the
9 entry of the Board's Order relating to the matter.

10 6. **Procedure for Adoption of Agreement.** The IC and counsel for the IC shall
11 recommend approval and adoption of the terms, covenants and conditions contained herein by
12 the Board in resolution of the disciplinary proceedings pending herein against Respondent
13 pursuant to the formal complaint. In the course of seeking Board approval, adoption and/or
14 acceptance of this Agreement, counsel for the IC may communicate directly with the Board staff
15 and members of the panel of the Board who would adjudicate this case if it were to go to hearing.
16 Respondent covenants and agrees that such contacts and communication may be made or
17 conducted ex parte, without notice or opportunity to be heard on her part or on the part of her
18 counsel, until the public Board meeting where this Agreement is discussed, and that such
19 contacts and communications may include, but not be limited to, matters concerning this
20 Agreement, the Complaint, the allegations in the complaint, any and all evidence that may exist
21 in support of the Complaint, and any and all information of every nature whatsoever related to
22 the Complaint against Respondent. The IC and its counsel agree that Respondent and/or her
23 counsel may appear at the Board meeting where this Agreement is discussed in order to respond
24 to any and all questions that may be addressed to the IC or its counsel at such meeting.

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

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

6 9. Effect of Rejection of Agreement by Board. In the event the Board does not
7 approve, accept and adopt the terms, covenants and conditions set out in this Agreement, this
8 Agreement shall be null, void, and of no further force and effect except as to the following
9 covenant and agreement regarding disqualification of adjudicating Board panel members.
10 Respondent agrees that, notwithstanding rejection of this Agreement by the Board, nothing
11 contained herein and nothing that occurs pursuant to efforts of the IC or its counsel to seek
12 acceptance and adoption of this Agreement by the Board shall disqualify any member of the
13 adjudicating panel of the Board from considering the charges against Respondent and
14 participating in the disciplinary proceedings in any role, including adjudication of the case, and
15 Respondent further agrees that she shall not seek to disqualify any such member absent evidence
16 of bad faith.

17 10. Release From Liability. In execution of this Agreement, the Respondent, for
18 herself, her executors, successors and assigns, hereby releases and forever discharges the state of
19 Nevada, the Board, the Nevada Attorney General, and each of their members, agents and
20 employees in their representative capacities, and in their individual capacities absent evidence of
21 bad faith, from any and all manner of actions, causes of action, suits, debts, judgments,
22 executions, claims and demands whatsoever, known and unknown, in law or equity, that
23 Respondent ever had, now has, may have or claim to have, against any or all of the persons or
24 entities named in this paragraph arising out of or by reason of this investigation, this disciplinary
25 action, this settlement or its administration, in connection with the complaint. The IC hereby
26 agrees to accept this Agreement in full settlement of all claims related to the complaint, with the
27 understanding that the final decision rests with the Board.

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1 11. Binding Effect. Respondent covenants and agrees that this Agreement is a
2 binding and enforceable contract upon Respondent and the Board's IC, which contract may be
3 enforced in a court or tribunal having jurisdiction.

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

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

11 14. Failure to comply with terms. In the event the Board enters its Order approving
12 this Agreement, should Respondent fail to comply with the terms recited herein, the Board would
13 then have grounds, after notice and a hearing, to take disciplinary action against Respondent in
14 addition to that included herein for the subject's violation of an Order of the Board in accordance
15 with NRS 630.3065(2)(a).

16 Dated this 13th day of May, 2009.

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19 Edward O. Cousineau
20 Attorney for the Investigative Committee of the
Nevada State Board of Medical Examiners

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19 Maria Nutile, Esq.
20 Attorney for Respondent

21 I, Maribel Monroe, M.D., hereby agree to the foregoing Settlement, Consent and Waiver
22 as to the complaint in Nevada State Board of Medical Examiners Case No. 08-12142-01
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24 Dated this 7th day of May, 2009.

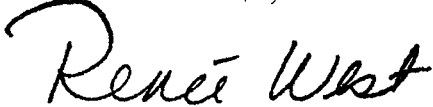
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27 Maribel Monroe, M.D., Respondent
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IT IS HEREBY ORDERED that the foregoing Settlement, Waiver and Consent Agreement is approved and accepted by the Nevada State Board of Medical Examiners on the 7th day of August 2009, with the final total amount of costs due of \$4,846.98.



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