

ORIGINAL

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In The Matter of Charges and)
Complaint Against)
JANET ALBRIGHT, M.D.,)
Respondent.)

Case No. 09-8180-1

FILED

AUG 11 2009

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

SETTLEMENT AGREEMENT

THIS AGREEMENT is entered into by and between the Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board), composed of Sohail U. Anjum, M.D., S. Daniel McBride, M.D., and Mr. Van V. Hefner, at the time the Complaint was authorized, by and through Edward Cousineau, General Counsel for the Board, and Janet Albright, M.D. (Respondent), by and through her counsel, Edward J. Lemons, Esq., as follows:

WHEREAS, on or about May 29, 2009, the Board's IC filed a formal complaint in the above referenced matter charging Respondent of 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, Respondent has received and reviewed a copy of the complaint, understands it, and has consulted with competent counsel, Edward J. Lemons, Esq., concerning 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 engaged in conduct that is grounds for discipline pursuant to the Medical Practice Act; and

WHEREAS, Respondent understands and agrees that she 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

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1 to representation by counsel in the preparation and presentation of her defense, the right to
2 confrontation and cross-examination of witnesses against her, the right to written findings,
3 conclusions and order regarding a final decision by the Board, and the right to judicial review of any
4 final decision by the Board that is adverse to her; and

5 **WHEREAS**, Respondent, based on her understanding of the relevant facts and
6 circumstances, and subject to the conditions set forth in this Agreement, desires to waive all of her
7 rights under the United States Constitution, the Constitution of the State of Nevada, the Medical
8 Practice Act and the Nevada Administrative Procedures Act, including but not limited to the right to
9 a hearing on the charges and written findings of fact, conclusions of law and order, and she desires
10 to settle and resolve the matter of the formal complaint against her by way of and in accordance with
11 this Settlement, Waiver and Consent Agreement; and

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

17 **WHEREAS**, Respondent understands and agrees that if the Board approves the terms,
18 covenants and conditions of this Agreement, then the terms, covenants and conditions enumerated
19 below shall be binding and enforceable upon her; and

20 **WHEREAS**, Respondent understands and agrees that, if the Board does not approve the
21 terms, covenants and conditions of this Agreement, then the terms, covenants and conditions
22 enumerated below shall not be binding and enforceable upon her except the provisions as to
23 disqualification of adjudicating panel members in paragraph number 9, and she will be provided
24 with an opportunity to defend herself against the charges against her at a regularly scheduled hearing
25 in accordance with all applicable laws.

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

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,
3 subject to 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 counsel herein, whom
6 Respondent covenants and agrees is fully capable, competent and fully advised in these
7 circumstances, and Respondent further covenants and agrees that she enters into this Agreement
8 knowingly, willingly, and intelligently after full consultation with and upon the advice of counsel.

9 3. **Waiver of Rights.** In connection with this Agreement, and the terms, covenants and
10 conditions contained herein, Respondent knowingly, willingly and intelligently, with the advice of
11 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 her or that may apply to her in connection with the proceeding on the complaint
14 filed herein, the defense of said complaint, the adjudication of the charges in said complaint and the
15 imposition of sanctions, and Respondent further agrees that the matter of the disciplinary action
16 commenced by 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.

18 4. **Acknowledgement of Reasonable Basis to Proceed.** Respondent covenants and
19 agrees that the Board's IC had a reasonable basis to believe that Respondent engaged in one or more
20 instances of conduct that is grounds for discipline pursuant to the provisions of the Medical Practice
21 Act.

22 5. **Consent to Entry of Order.** In order to resolve the matter of these disciplinary
23 proceedings pending against her without any further costs and expense of providing a defense to the
24 complaint, and in recognition by the IC that Respondent has taken remedial steps to ensure the
25 events at issue cannot manifest themselves in the future, Respondent hereby agrees, and does not
26 contest, that an order may be entered herein by the Board against her finding that Respondent
27 engaged in conduct that is grounds for discipline pursuant to the Medical Practice Act, to wit: one
28 count of malpractice related to the care and treatment if the patient at issue, a violation of

1 NRS 630.301(4), that Respondent shall be publicly reprimanded, and that the Respondent agrees to
2 reimburse the Board the reasonable costs and expenses incurred in the investigation and prosecution
3 of this case, the current amount being \$2,029.71. This amount does not include the further costs that
4 may be incurred by the Board to conclude the matter. Respondent agrees to pay these additional
5 costs, in addition to the aforementioned amount to the Board within sixty (60) days of the
6 acceptance, adoption and approval of this Agreement by the Board.

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

15 7. **Procedure for Adoption of Agreement.** The IC and counsel for the IC shall
16 recommend approval and adoption of the terms, covenants and conditions contained herein by
17 the Board in resolution of the disciplinary proceedings pending herein against Respondent
18 pursuant to the formal complaint. In the course of seeking Board approval, adoption and/or
19 acceptance of this Agreement, counsel for the IC may communicate directly with the Board staff
20 and members of the panel of the Board that would adjudicate this case if it were to go to hearing.
21 Respondent covenants and agrees that such contacts and communication may be made or
22 conducted ex parte, without notice or opportunity to be heard on his part or on the part of her
23 counsel, and that such contacts and communications may include, but not be limited to, matters
24 concerning this Agreement, the complaint, the allegations in the complaint any and all evidence
25 that may exist in support of the complaint, and any and all information of every nature
26 whatsoever related to the complaint or the proceedings herein against Respondent.

27 8. **Effect of Acceptance of Agreement by Board.** In the event the Board approves,
28 accepts and adopts the terms, covenants and conditions set out in this Agreement, the Board will

1 enter herein an order finding Respondent violated NRS 630.301(4), ordering that Respondent be
2 publicly reprimanded, and ordering Respondent to pay the costs and expenses of the investigation
3 and prosecution of this matter as provided herein.

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

14 10. **Binding Effect.** Respondent covenants and agrees that this Agreement is a
15 binding and enforceable contract upon Respondent and the Board's IC, which contract may be
16 enforced in a court or tribunal having jurisdiction. Additionally, upon receipt of credible
17 information that Respondent has failed to comply with any term or condition of the
18 aforementioned order, the Board shall be authorized to immediately suspend Respondent's
19 license to practice medicine until Respondent complies with the term or condition. Further,
20 failure to comply with the terms recited herein may result in additional disciplinary action being
21 initiated against Respondent for a violation of an Order of the Board in accordance with
22 NRS 630.3065(2)(a). And, any failure to pay any fine, fee, or cost ordered herein may also result
23 in such legal action as determined to be necessary to collect the unpaid fine, fee, or cost.

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

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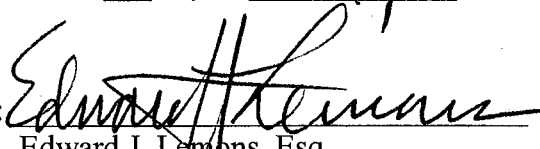
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12. Attorneys Fees and Costs. Respondent covenants and agrees that in the event an action is commenced in the district court to enforce any provision of this Agreement the prevailing party shall be entitled to recover reasonable costs and attorneys'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


Dated this 20th day of July, 2009.

Dated this 16th day of July, 2009.

By: 
Edward O. Cousineau
Attorney for the Investigative Committee
of the Nevada State Board of Medical Examiners

By: 
Edward J. Lemons, Esq.
Attorney for Respondent

UNDERSTOOD AND AGREED:


Janet Albright, M.D., Respondent

Dated this 14 day of July, 2009.

OFFICE OF THE GENERAL COUNSEL

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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 \$2,230.96.



CHARLES N. HELD, President
NEVADA STATE BOARD OF MEDICAL EXAMINERS