

ORIGINAL

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and)
Complaint Against)
RONALD H. FOOTE, M.D.,)
Respondent.)

Case No. 08-12899-1

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 (the Board), which was composed of Charles N. Held, M.D., Cindy Lamerson, M.D., and Ms. Jean Stoess, M.A., at the time the Complaint was authorized, and represented by and through Edward Cousineau, Esq., and Dr. Ronald H. Foote (Respondent), represented by John H. Cotton, Esq., as follows:

WHEREAS, on February 6, 2008, 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 and NAC 630), to wit: obtaining, maintaining, renewing or attempting to obtain, maintain or renew a license to practice medicine by, bribery, fraud or misrepresentation or by any false, misleading, inaccurate or incomplete statement, a violation of NRS 630.304(1).

WHEREAS, Respondent has received and reviewed a copy of the complaint, understands it, and has been afforded the opportunity to consult with counsel concerning the nature and significance of the complaint, and Respondent is fully aware of 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

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1 **WHEREAS**, Respondent understands and agrees that he has certain rights under the
2 United States Constitution and the Constitution of the State of Nevada as well as under the
3 Medical Practice Act and the Nevada Administrative Procedures Act (NRS Chapter 233B)
4 including but not limited to the right to a formal hearing on the charges against him, the right to
5 representation by counsel in the preparation and presentation of his defense, the right to
6 confrontation and cross-examination of witnesses against him, the right to written findings,
7 conclusions and order regarding a final decision by the Board, and the right to judicial review
8 of any final decision by the Board that is adverse to him; and

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

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

22 **WHEREAS**, Respondent understands and agrees that if the Board approves the terms,
23 covenants and conditions of this Agreement, then the terms, covenants and conditions
24 enumerated below shall be binding and enforceable upon him; and

25 **WHEREAS**, Respondent understands and agrees that, if the Board does not approve
26 the terms, covenants and conditions of this Agreement, then the terms, covenants and
27 conditions enumerated below shall not be binding and enforceable upon him except the
28 provisions as to disqualification of adjudicating panel members in paragraph number 9, and he

1 will be provided with an opportunity to defend himself against the charges against him at a
2 regularly scheduled hearing in accordance with all applicable laws;

3 **NOW THEREFORE**, in order to resolve the pending complaint and charges brought
4 against him by the Board's Investigative Committee in the above captioned matter, Respondent
5 and the Investigative Committee hereby agree to the following terms, covenants and
6 conditions:

7 1. **Jurisdiction.** Respondent is, and at all times mentioned in the complaint filed
8 in the above-captioned matter was licensed to practice medicine in the State of Nevada,
9 practicing in
10 Las Vegas, Nevada, subject to jurisdiction of the Board to hear and adjudicate charges of
11 violations of the Medical Practice Act, and to impose sanctions as provided by the Act.

12 2. **Representation by Counsel.** Respondent is represented by counsel named
13 herein, whom Respondent covenants and agrees is fully capable, competent and fully advised
14 in these circumstances, and Respondent further covenants and agrees that he enters into this
15 Agreement knowingly, willingly, and intelligently after full consultation with and upon the
16 advice of counsel.

17 3. **Waiver of Rights.** In connection with this Agreement, and the terms, covenants
18 and conditions contained herein, Respondent knowingly, willingly and intelligently, waives all
19 rights arising under or pursuant to the United States Constitution, the Constitution of the State
20 of Nevada, NRS Chapter 630 and NRS Chapter 233B that may be available to him or that may
21 apply to him in connection with the proceeding on the complaint filed herein, the defense of
22 said complaint, the adjudication of the charges in said complaint, and the imposition of
23 sanctions, and Respondent further agrees that the matter of the disciplinary action commenced
24 by complaint herein may be settled and resolved in accordance with this Agreement without a
25 hearing or any further proceeding, and without the right to judicial review.

26 4. **Acknowledgement of Reasonable Basis to Proceed.** Respondent covenants
27 and agrees that the Board's IC had a reasonable basis to believe that Respondent engaged in
28 conduct that is grounds for discipline pursuant to the provisions of the Medical Practice Act.

1 5. **Consent to Entry of Order.** In order to resolve the matter of these disciplinary
2 proceedings pending against him without any further costs and expense of providing a defense
3 to the complaint, or to an amended complaint, Respondent hereby agrees, and does not contest,
4 that an order may be entered herein by the Board against him finding that Respondent engaged
5 in conduct that is grounds for discipline pursuant to the Medical Practice Act to wit: a one
6 count violation of NRS 630.304(1), that Respondent's license shall be suspended for a term of
7 one year, said suspension shall be stayed with Respondent complying with and accepting the
8 following conditions: 1) that Respondent obey all laws and regulations during his stayed
9 suspension, 2) that Respondent shall be issued a public reprimand related to his conduct
10 involving the instant matter, 3) that Respondent shall be fined in the amount of \$2,500.00, and
11 4) that Respondent shall reimburse the Board the reasonable costs and expenses incurred in the
12 investigation and prosecution of this case, the current amount being \$ 4,378.41. This amount
13 does not include the further prosecutorial costs that may be incurred by the Board to dispose of
14 the matter. Respondent agrees to pay these additional prosecutorial costs, in addition to the
15 aforementioned costs amount. The final costs amount is to be paid to the Nevada State Board
16 of Medical Examiners within sixty (60) days of the acceptance, adoption and approval of this
17 Agreement by the Board, and the final accounting of costs will be provided to Respondent with
18 thirty (30) days of entry of the related Board Order. The stayed suspension timeframe shall
19 begin upon entry of the Board's order related to the matter.

20 6. **Release From Liability.** In execution of this Agreement, Respondent, for
21 himself, his executors, successors and assigns, hereby releases and forever discharges the state
22 of Nevada, the Board, the Nevada Attorney General, and each of their members, agents and
23 employees in their individual and representative capacities, from any and all manner of actions,
24 causes of action, suits, debts, judgments, executions, claims and demands whatsoever, known
25 and unknown, in law or equity, that Respondent ever had, now has, may have or claim to have,
26 against any or all of the persons or entities named in this paragraph arising out of or by reason
27 of this investigation, this disciplinary action, this settlement or its administration.
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1 7. **Procedure for Adoption of Agreement.** The IC and counsel for the IC shall
2 recommend approval and adoption of the terms, covenants and conditions contained herein by
3 the Board in resolution of the disciplinary proceedings pending herein against Respondent
4 pursuant to the formal complaint. In the course of seeking Board approval, adoption and/or
5 acceptance of this Agreement, counsel for the IC may communicate directly with the Board
6 staff and members of the panel of the Board that would adjudicate this case if it were to go to
7 hearing. Respondent covenants and agrees that such contacts and communication may be made
8 or conducted ex parte, without notice or opportunity to be heard on his part, and that such
9 contacts and communications may include, but not be limited to, matters concerning this
10 Agreement, the complaint, the allegations in the complaint, any and all evidence that may exist
11 in support of the complaint, and any and all information of every nature whatsoever related to
12 the complaint or the proceedings herein against Respondent.

13 8. **Effect of Acceptance of Agreement by Board.** In the event the Board
14 approves, accepts and adopts the terms, covenants and conditions set out in this Agreement, the
15 Board will enter an order consistent with the terms enunciated in paragraph 5 above.

16 9. **Effect of Rejection of Agreement by Board.** In the event the Board does not
17 approve, accept and adopt the terms, covenants and conditions set out in this Agreement, this
18 Agreement shall be null, void, and of no further force and effect except as to the following
19 covenant and agreement regarding disqualification of adjudicating Board panel members.
20 Respondent agrees that, notwithstanding rejection of this Agreement by the Board, nothing
21 contained herein and nothing that occurs pursuant to efforts of the IC or its' counsel to seek
22 acceptance and adoption of this Agreement by the Board shall disqualify any member of the
23 adjudicating panel of the Board from considering the charges against Respondent and
24 participating in the disciplinary proceedings in any role, and Respondent further agrees that he
25 shall not seek to disqualify any such member.

26 10. **Binding Effect.** Respondent covenants and agrees that this Agreement is a
27 binding and enforceable contract upon Respondent and the Board's IC, which contract may be
28 enforced in a court or tribunal having jurisdiction.


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

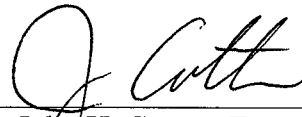
5 12. **Attorneys Fees and Costs.** Respondent covenants and agrees that in the event
6 an action is commenced in the district court to enforce any provision of this Agreement the
7 prevailing party shall be entitled to recover reasonable costs and attorneys' fees.

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

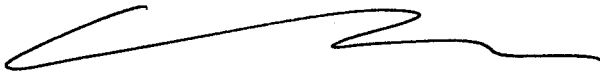
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14 Dated this 13th day July, 2009.

Dated this 6 day of July, 2009.

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16 By: 
17 Edward O. Cousineau, Esq.
18 Attorney for the Investigative Committee
of the Nevada State Board of Medical Examiners

By: 
John H. Cotton, Esq.
Attorney for Respondent

19
20 UNDERSTOOD AND AGREED:

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23 Ronald H. Foote, M.D., Respondent

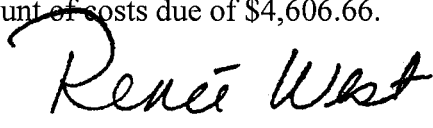
24 Dated this 6 day of July, 2009.
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IT IS HEREBY ORDERED that the foregoing Settlement, Waiver and Consent Agreement is approved and accepted by the Nevada State Board of Medical Examiners on the 7th day of August 2009, with the final total amount of costs due of \$4,606.66.



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