

1 **BEFORE THE BOARD OF MEDICAL EXAMINERS**
2 **OF THE STATE OF NEVADA**

3 * * * * *

FILED

DEC - 6 2010

NEVADA STATE BOARD OF
MEDICAL EXAMINERS
By: _____
Case No. 10-11300-1

4 **In The Matter of Charges and**)
5)
6 **Complaint Against**)
7)
8 **ISMAT CHAUDHERY, M.D.,**)
9 **Respondent.**)
_____)

10 **SETTLEMENT, WAIVER AND CONSENT AGREEMENT**

11 **THIS AGREEMENT** is hereby entered into by and between the Investigative Committee
12 (IC) of the Nevada State Board of Medical Examiners (the Board), composed of
13 Benjamin J. Rodriguez, M.D., Chairman, Van V. Heffner, Member, and Beverly Neyland, M.D.,
14 Member, by and through Bradley O. Van Ry, Deputy General Counsel, and Ismat Chaudhery,
15 M.D. (Respondent), as follows:

16 **WHEREAS**, on April 15, 2010, the Board's IC filed a Complaint in the above referenced
17 matter charging Respondent with engaging in conduct that is grounds for discipline pursuant to the
18 Medical Practice Act (NRS Chapter 630 and NAC Chapter 630) to wit: multiple counts of
19 violating the Medical Practice Act arising from and related to the Respondent, on behalf of
20 Chaudhery Pediatrics, pleading guilty to one count of Submitting False Claims: Medicaid
21 Fraud, a felony violation of NRS 422.540(1) and the Judgment of Conviction in that matter; and,

22 **WHEREAS**, Respondent has received and reviewed a copy of the Complaint, understands
23 the nature and significance of the Complaint and is fully advised concerning her rights and
24 defenses to the Complaint as well as the possible sanctions that may be imposed if the Board finds
25 and concludes that she has engaged in conduct that is grounds for discipline pursuant to the
26 Medical Practice Act and after due consideration concedes that she is subject to discipline as
27 outlined, alleged and set forth in the Complaint; and,
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1 **WHEREAS**, Respondent understands and agrees that this Agreement is entered into by
2 and between herself and the Board's Investigative Committee, and not with the Board, but that the
3 Investigative Committee will present this Agreement to the Board for consideration in open
4 session at a Board meeting, appropriately noticed, and that the Investigative Committee shall
5 advocate approval of this Agreement by the Board, but that the Board has the right to decide in its
6 own discretion whether or not to approve this Agreement; and,

7 **WHEREAS**, Respondent and the Investigative Committee each understand and agree that
8 if the Board approves the terms, covenants and conditions of this Agreement, then the terms,
9 covenants and conditions enumerated below shall be binding and enforceable upon Respondent
10 and the Board's Investigative Committee; and,

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

14 1. **Consent to Entry of Order.** In order to resolve the matter of these disciplinary
15 proceedings pending against her without any further costs and expense of providing a defense to
16 the Complaint or to any amended complaints, Respondent hereby agrees that an order may be
17 entered herein by the Board finding that Respondent engaged in conduct that is grounds for
18 discipline pursuant to the Medical Practice Act to wit: one count of violating Nevada Revised
19 Statute Section 630.301(1) the conviction of a felony relating to the practice of medicine; one
20 count of violating Nevada Revised Statute Section 630.301(9) by engaging in conduct that
21 brings the medical profession into disrepute as set forth in the complaint; and,

22 It shall be ordered that Respondent be publicly reprimanded and that Respondent shall be
23 ordered to pay a fine of \$10,000.00;

24 Furthermore, Respondent shall be ordered to reimburse the Board the reasonable costs
25 and expenses incurred in the investigation and prosecution of this case, the current amount being
26 \$1,724.02, along with the costs to conclude the matter, if any. The costs and fines shall be paid
27 to the Nevada State Board of Medical Examiners within thirty (30) days of the Board's
28 acceptance and approval of this Agreement;

1 Additionally, it shall be ordered that Respondent attend and participate in 11.75 hours of
2 CME in medical billing in addition to the annual CME requirement. Respondent's attendance
3 and participation in the ordered CME is to be accomplished within one (1) year of the entry of
4 this Agreement, and Respondent is to provide proof of attendance and participation to the Board.

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

9 3. **Representation by Counsel.** Respondent is represented by Kenneth E. Hogan,
10 Esq., in this matter. Respondent acknowledges and agrees that she enters into this agreement
11 knowingly, willingly and intelligently after full consultation with counsel.

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

1 5. **Acknowledgement of Reasonable Basis to Proceed.** Respondent covenants and
2 agrees that the Board's Investigative Committee has a reasonable basis to believe that Respondent
3 violated one or more provisions of the Medical Practice Act.

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

22 7. **Effect of Acceptance of Agreement by Board.** In the event the Board approves
23 the terms, covenants and conditions set out in this Agreement, counsel for the Investigative
24 Committee will cause to be entered herein the Board's Order approving this Settlement, Waiver
25 and Consent Agreement, ordering full compliance with the terms herein and ordering that this
26 case be closed, subject to the provisions in Paragraph 1.

27 8. **Effect of Rejection of Agreement by Board.** In the event the Board does not
28 approve the terms, covenants and conditions set out in this Agreement, this Agreement shall be

1 null, void, and of no further force and effect except as to the following covenant and agreement
2 regarding disqualification of adjudicating Board panel members. Respondent agrees that,
3 notwithstanding rejection of this Agreement by the Board, nothing contained herein and nothing
4 that occurs pursuant to efforts of the Investigative Committee or its counsel to seek acceptance
5 and adoption of this Agreement by the Board shall disqualify any member of the adjudicating
6 panel of the Board from considering the charges against Respondent and participating in the
7 disciplinary proceedings in any role, including adjudication of the case, and Respondent further
8 agrees that she shall not seek to disqualify any such member absent evidence of bad faith.

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

20 10. **Binding Effect.** Respondent covenants and agrees that this Agreement is a
21 binding and enforceable contract upon Respondent and the Board's Investigative Committee
22 which contract may be enforced in a court or tribunal having jurisdiction.

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

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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.

13. **Failure to comply with terms.** In the event the Board enters its Order approving this Agreement, upon receipt of credible information that Respondent has failed to comply with any term or condition of this Order, the Board shall be authorized to immediately suspend Respondent's license until Respondent complies with the term or condition. Failure to comply with the terms recited herein may result in additional disciplinary action being initiated against Respondent for a violation of an Order of the Board in accordance with NRS §630.3065(2)(a). Furthermore, any failure to pay any fine, fee, or cost ordered herein will also result in such legal action as determined to be necessary to collect the unpaid fine, fee, or cost.


Dated this 12th day of November of 2010.

Dated this 3rd day of Nov, 2010.

By: 
Bradley O. Van Ry, Esq.
Attorney for the Investigative Committee

By: 
Kenneth E. Hogan, Esq.
Attorney for Respondent

Read and understood by:

By: 
Ismat Chaudhery, M.D.

1 IT IS HEREBY ORDERED that the foregoing Settlement, Waiver and Consent Agreement is
2 approved and accepted by the Nevada State Board of Medical Examiners on the 3rd day of
3 December 2010, with the final total amount of costs due of \$1,724.02.

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6 Charles N. Held, M.D., President
7 NEVADA STATE BOARD OF MEDICAL EXAMINERS
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