

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

3 * * * * *

4 **In The Matter of Charges and**)
5)

6 **Complaint Against**)
7)

8 **LARRY YEE, M.D.,**)
9)

Respondent)
10)

Case No. 11-6816-1

FILED

MAR 12 2012

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

By: 

11 **SETTLEMENT, WAIVER AND CONSENT AGREEMENT**

12 **THIS AGREEMENT** is hereby entered into by and between the
13 Investigative Committee (IC) of the Nevada State Board of Medical Examiners (the Board)
14 composed of Theodore B. Berndt, M.D., Chairman, Valerie J. Clark, BSN, RHU, LUTCF,
15 Member, Michael J. Fischer, M.D., Member, in the above-captioned matter, by and through
16 Bradley O. Van Ry, Esq., Deputy General Counsel for the Board and counsel for the IC, and
17 Larry Yee, M.D. (Respondent), as follows:

18 **WHEREAS**, on or about September 2, 2011, the Board's IC summarily suspended
19 Respondent's license to practice medicine in the state of Nevada pursuant to
20 NRS Section 630.326(1).

21 **WHEREAS**, on or about October 7, 2011, the Board's IC filed a formal Complaint in the
22 above-referenced matter charging Respondent with engaging in conduct that is grounds for
23 discipline pursuant to the Nevada's Medical Practice Act, i.e., Chapter 630 of the Nevada Revised
24 Statutes (NRS), to wit: Count I, one count of engaging in conduct that brings the medical
25 profession into disrepute, a violation of NRS 630.301(9); Count II, one count of engaging in
26 conduct which is intended to deceive, a violation of NRS 630.306(2)(a); Count III, one count of
27 willfully failing to comply with an Order of the IC, a violation of NRS 630.3065(2)(a); Count IV,
28 one count of engaging in conduct that violates the trust of a patient for financial or other gain, a
violation of NRS 630.301(7); Count V, one count of engaging in conduct which violates a

1 regulation adopted by the State Board of Pharmacy, a violation of NRS 630.306(2)(c); Count VI,
2 one count of administering, dispensing or prescribing any controlled substance to or for himself
3 except as authorized by law, a violation of NRS 630.3062(3); and,

4 **WHEREAS**, Respondent has received a copy of the Order of Summary Suspension and
5 the formal Complaint, reviewed it, understands it, and has had ample opportunity to consult with
6 his counsel, L. Kristopher Rath, Esq., concerning the nature and significance of the Order of
7 Summary Suspension and formal Complaint, and Respondent is fully aware concerning his rights
8 and defenses to the Summary Suspension and formal Complaint as well as the possible sanctions
9 that may be imposed if the Board finds and concludes that he has violated one or more provisions
10 of the Medical Practice Act; and,

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

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

19 **WHEREAS**, Respondent understands and agrees that if the Board does not approve the
20 terms, covenants and conditions of this Agreement, then the terms, covenants and conditions
21 enumerated below shall not be binding and enforceable upon him except the provisions as to
22 disqualification of adjudicating panel members in paragraph number 8, and he will be provided
23 with an opportunity to defend himself against the charges against him as alleged in the Order of
24 Summary Suspension and formal Complaint at a regularly scheduled hearing in accordance with
25 all applicable laws; and,

26 **NOW THEREFORE**, in order to resolve this matter and all charges alleged by the
27 Board's IC in the above-captioned matter, Respondent and the IC hereby agree to the following
28 terms, covenants and conditions:

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

5 **2. Representation by Counsel/Knowing, Willing and Intelligent Agreement.**

6 Respondent is represented by L. Kristopher Rath, Esq. in this matter and has had ample
7 opportunity to review this agreement, the Order of Summary Suspension and formal Complaint
8 filed in this matter and related factual basis with said legal counsel. Respondent further covenants
9 and agrees that he enters into this Agreement knowingly, willingly, and intelligently.

10 **3. Waiver of Rights.** In connection with this Agreement, and the terms, covenants
11 and conditions contained herein, and the understanding that Respondent knowingly, willingly and
12 intelligently, waives all rights arising under or pursuant to the United States Constitution, the
13 Constitution of the state of Nevada, NRS Chapter 630, NRS Chapter 233B, and any other statutory
14 rights that may be available to him or that may apply to him in connection with the proceeding on
15 the Order of Summary Suspension and formal Complaint filed herein, the defense of said Order of
16 Summary Suspension and formal Complaint and the adjudication of the charges in said Order of
17 Summary Suspension and formal Complaint, and Respondent further agrees that the matter of the
18 Order of Summary Suspension and formal Complaint herein may be settled and resolved in
19 accordance with this Agreement without a hearing or any further proceeding, and without the right
20 to judicial review. In the event this Agreement is not approved by the Board, this Agreement shall
21 have no force and effect and shall be *void ab initio*, and Respondent shall have all rights arising
22 under or pursuant to the United States Constitution, the Constitution of the state of Nevada, NRS
23 Chapter 630, NRS Chapter 233B, and any other statutory rights that may be available to him or
24 that may apply to him in connection with the proceeding on the Order of Summary Suspension and
25 formal Complaint filed herein.

26 **4. Consent to Entry of Order.** Respondent is aware that the trier of fact, the Board,
27 may find a factual basis in support of the formal Complaint against Respondent. Accordingly, in
28 order to resolve the matter without incurring further costs and expense of providing a defense to

1 the Order of Summary Suspension and formal Complaint or to any other further amended
2 complaint, and in exchange for the waiver of the Respondent's foregoing rights, Respondent has
3 entered into this Agreement, and agrees¹:

4 a. The Board may enter an order against Respondent finding that Respondent has
5 engaged in conduct that is grounds for discipline pursuant to the Medical Practice Act, to wit:
6 Count I, one count of engaging in conduct that brings the medical profession into disrepute, a
7 violation of NRS 630.301(9); Count III, one count of willfully failing to comply with an Order of
8 the IC, a violation of NRS 630.3065(2)(a); and, Count V, one count of engaging in conduct which
9 violates a regulation adopted by the State Board of Pharmacy, a violation of NRS 630.306(2)(c);
10 and ordering that Respondent's license to practice medicine be revoked.

11 b. Respondent's revocation shall hereby be stayed, and Respondent shall be placed on
12 probation with the following terms and conditions until further Order of the Board and at all times
13 during his complete and exact compliance:

14 1. At any time that the Board reasonably believes that Respondent has
15 committed any violation of the terms of this agreement, it shall immediately cause the suspension
16 of Respondent's license to practice medicine. The Board shall then immediately issue an Order to
17 Show Cause as to why Respondent's license to practice medicine should not be revoked, and a
18 hearing shall be scheduled within forty-five (45) days of the imposition of the suspended license
19 status. The hearing shall be held by a hearing officer who shall provide a synopsis and
20 recommendation on credibility of the witnesses and evidence for the Board to review. The Board
21 shall subsequently review the submitted record at its regularly scheduled quarterly meeting
22 pursuant to NRS 630.339(6) and NAC 630.470(8). The standard of review for the Board in
23 determining the violation of the terms of this agreement shall be a preponderance of the evidence
24 standard pursuant to NRS 630.346(2);

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27 ¹ All admissions made by Respondent are solely for final disposition of this matter and any subsequent related
28 administrative proceedings or civil litigation involving the Board and Respondent. Therefore, said admissions by
Respondent are not intended or made for any other use, such as in the context of another state or federal government
regulatory agency proceeding, state or federal civil or criminal court proceeding, or any other state or federal court.

1 2. Respondent shall avoid all psychostimulants, typically used for treatment of
2 alleged deficit disorder, like Ritalin, Dexedrine, Adderall and any other medications from this
3 general class;

4 3. Respondent shall be tested monthly for the foregoing psychostimulants at
5 his own expense. Respondent shall sign a new release of information in favor of the Board
6 allowing the Board to communicate and receive any and all information from any drug testing
7 facility performing the drug tests. The facility shall provide all test results directly to the Board,
8 and the Board compliance officer shall direct Respondent when and where testing shall take place;

9 4. Respondent shall undergo outpatient psychiatric treatment/counseling at
10 least two (2) times per month. Respondent shall execute a new release of information in favor of
11 the Board allowing the Board to receive monthly reports by the psychiatrist/counselor to the Board
12 and any other further communication required by the Board. Said psychiatrist/counselor shall
13 make mandatory monthly reports to the Board. The psychiatrist/counselor shall notify the Board
14 within twenty-four (24) hours of failure by Dr. Yee to appear for an appointment. All of this at
15 Respondent's own expense;

16 5. Respondent shall reduce the use of Klonopin and Xanax (benzodiazepines)
17 to the lowest possible degree to reduce anxiety pursuant to Respondent's physician's directive;

18 6. The Board shall monitor Respondent's medical practice for the remainder of
19 his professional career. No less than two (2) times per month and up to four (4) times per month,
20 the Board and/or its agent, representative or employee is hereby authorized to visit Respondent's
21 practice and randomly select records, up to fifteen (15) patients, for review. The Board, in its sole
22 discretion, may reduce the frequency of monitoring based upon Respondent's compliance with all
23 terms of this agreement and provided that no concerns are found during monitoring visits to
24 Respondent's practice;

25 7. Respondent shall provide a list of all new patients to the Board monthly;
26 and,

27 8. Respondent is hereby allowed, and may petition the Board for modification
28 of this licensing status and re-instatement to full active and unrestricted practice, at any time after

1 two (2) years following the acceptance of this Agreement by the Board. The IC, and the Board,
2 make no representations, warranties or promises in this regard herein.

3 c. Pursuant to NRS §622.400, Respondent shall pay the sum of \$7,702.73, the current
4 amount of the costs incurred by the Board to investigate and prosecute this matter, along with the
5 costs to conclude the matter, if any. The costs shall be paid to the Nevada State Board of Medical
6 Examiners in eighteen (18) equal monthly payments of \$427.93 beginning sixty (60) days after the
7 Board's acceptance and approval of this Agreement;

8 d. The Board shall issue a public reprimand;

9 e. Respondent shall attend and participate, in person, in ten (10) hours of CME in
10 patient interaction, and pre-approved by the IC, in addition to the normal CME hours required to
11 maintain licensure. Respondent's attendance and participation in the ordered CME is to be
12 accomplished within twelve (12) months of the entry of this Agreement, and Respondent is to
13 provide proof of attendance and participation to the Board;

14 f. Counts II, IV and VI of the complaint against Respondent shall be dismissed;

15 g. Final approval of this agreement by the Board shall be sought at the next regularly
16 scheduled Board meeting.

17 h. Respondent shall contact the Compliance Officer of the Board within thirty (30)
18 days of the approval and acceptance of this Agreement in order to provide information regarding
19 the most expeditious method of contacting him;

20 i. Respondent shall notify the Board within forty-eight (48) hours of any arrest,
21 criminal conviction, including misdemeanors, or any admission for treatment of substance abuse
22 or psychological illness;

23 j. Respondent also agrees that if he is charged with professional misconduct in the
24 future, this Agreement, and/or related orders, and/or records of his compliance, may be admitted
25 into evidence at a hearing regarding the alleged professional misconduct, at the sole discretion of
26 the IC;

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1 k. Respondent agrees to pay the reasonable costs, if any, of monitoring his medical
2 practice by the Board to the Board and shall pay said costs within thirty (30) days of the due date
3 of any invoice presented by the Board; and,

4 1. The terms of this Agreement may be reported as allowed by law.

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

13 **6. Procedure of Adoption of Agreement.** The IC and counsel for the IC shall
14 recommend approval and adoption of the terms, covenants and conditions contained herein by the
15 Board in resolution of the formal Complaint pending herein against Respondent. In the course of
16 seeking Board approval, adoption and/or acceptance of this Agreement, counsel for the IC may
17 communicate directly with the Board staff and members of the panel of the Board who would
18 adjudicate this case if it were to go to hearing.

19 Respondent acknowledges that such contacts and communication may be made or
20 conducted ex parte, without notice or opportunity to be heard on his part or on the part of his
21 counsel until the public Board meeting where this Agreement is discussed, and that such contacts
22 and communications may include, but not be limited to, matters concerning this Agreement, the
23 formal Complaint, and any and all information of every nature whatsoever related to the formal
24 Complaint or the proceedings herein against Respondent. The IC and its counsel agree that
25 Respondent and/or his counsel, if any, may appear at the Board meeting where this Agreement is
26 discussed, and if requested, to respond to any questions that may be addressed to the IC or its
27 counsel.

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1 **7. 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.

6 **8. 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 participating
14 in the disciplinary proceeding in any role, including adjudication of the case. Respondent further
15 agrees that he shall not seek to disqualify any such member absent evidence of bad faith.

16 **9. Binding Effect.** Providing this Agreement is approved by the Board, Respondent
17 covenants and agrees that this Agreement is a binding and enforceable contract upon Respondent
18 and the Board’s IC, which contract may be enforced in a court or tribunal having jurisdiction.

19 **10. Forum Selection Clause.** Respondent covenants and agrees that in the event either
20 party is required to seek enforcement of this Agreement in the district court, he consents to such
21 jurisdiction, and covenants and agrees that exclusive jurisdiction shall be in the Second Judicial
22 District Court of the state of Nevada in and for the county of Washoe.

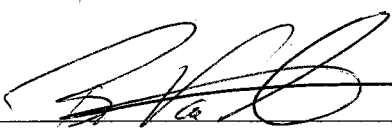
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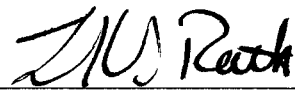
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11. Attorneys' Fees and Costs. Respondent covenants and agrees that in the event an action is commenced in the district court to enforce any provision of this Agreement, the prevailing party shall be entitled to recover costs and reasonable attorneys'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

Dated this 16th day of December of 2011.

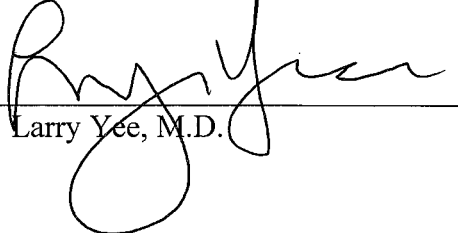
Dated this 15th day of December, 2011.

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

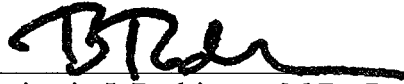
By: 
L. Kristopher Rath, Esq.
Attorney for Respondent

Read and understood by:

Dated this 15 day of December, 2011.

By: 
Larry Yee, 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 9th day of March 2012,
3 with the final total amount of costs due of \$7,702.73.

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6 Benjamin J. Rodriguez, M.D., President
7 NEVADA STATE BOARD OF MEDICAL EXAMINERS
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