

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

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6 **In the Matter of Charges and**)
7 **Complaint Against**)
8 **NERI BLANCO-CUEVAS, M.D.,**)
9 **Respondent.**)

Case No. 12-12338-1

FILED

SEP 11 2012

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

By: 

11
12 **SETTLEMENT AGREEMENT**

13 **THIS AGREEMENT** is entered into by and between the Investigative Committee (IC) of the
14 Nevada State Board of Medical Examiners (Board), composed of Theodore B. Berndt, M.D., Chairman,
15 Valerie J. Clark, BSN, RHU, LUTCF, Member, and Michael J. Fisher, M.D., Member, by and through
16 Edward O. Cousineau, Esq., Deputy Executive Director for the Board, and counsel for the IC, and
17 Neri Blanco-Cuevas, M.D. (Respondent), by and through Michael D. Navratil, Esq., as follows:

18 **WHEREAS**, on March 8, 2012, the Board's IC filed a formal Complaint in the above-referenced
19 matter charging Respondent with engaging in conduct that is grounds for discipline pursuant to the
20 Medical Practice Act, Nevada Revised Statutes (NRS) Chapter 630, to wit: one count of malpractice, as
21 Respondent failed to use the reasonable care, skill, or knowledge ordinarily used in similar circumstances;
22 and

23 **WHEREAS**, Respondent has received and reviewed a copy of the Complaint, understands it, and
24 has been afforded the opportunity to consult with counsel concerning the nature and significance of the
25 Complaint, and Respondent fully understands her rights and defenses regarding the Complaint, as well as
26 the possible sanctions that may be imposed if the Board finds and concludes that she has engaged in
27 conduct that is grounds for discipline pursuant to the Medical Practice Act; and

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1 **WHEREAS**, Respondent understands and agrees that she has certain rights under the United
2 States Constitution and the Constitution of the state of Nevada, as well as under the Medical Practice Act
3 (NRS Chapter 630) and the Nevada Administrative Procedures Act (NRS Chapter 233B), including but
4 not limited to the right to a formal hearing on the charges against her, the right to representation by counsel
5 in the preparation and presentation of her defense, the right to confrontation and cross-examination of
6 witnesses against her, the right to written findings, conclusions of law, and order regarding a final decision
7 by the Board, and the right to judicial review of any final decision by the Board that is adverse to her; and

8 **WHEREAS**, Respondent, based upon her understanding of the relevant facts and circumstances,
9 and subject to the conditions set forth in this Agreement, desires to waive all of her rights under the United
10 States Constitution, the Constitution of the state of Nevada, the Medical Practice Act and the Nevada
11 Administrative Procedures Act, including but not limited to the right to a hearing on the charges and a
12 written Findings of Fact, Conclusions of Law and Order, and she desires to settle and resolve this matter of
13 the formal Complaint against her by way of and in accordance with this Settlement 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 Agreement to
16 the Board for consideration in open session at a regular meeting duly noticed and scheduled, and that the
17 IC will advocate approval of this Agreement by the Board, but that the Board has the right to decide in its
18 own discretion whether or not to approve this Agreement; and

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

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

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1 **NOW, THEREFORE**, in order to resolve the pending Complaint and charges brought against her
2 by the Board's IC in the above-captioned matter, Respondent and the IC hereby agree to the following
3 terms, covenants and conditions:

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

8 2. **Representation by Counsel**. Respondent is represented by counsel named herein, whom
9 Respondent covenants and agrees is fully capable, competent and fully advised in these circumstances, and
10 Respondent further covenants and agrees that she enters into this Agreement knowingly, willingly and
11 intelligently, after full consultation with and upon the advice of counsel.

12 3. **Waiver of Rights**. In connection with this Agreement, and the terms, covenants and
13 conditions contained herein, Respondent knowingly, voluntarily and intelligently waives all rights arising
14 under or pursuant to the United States Constitution, the Constitution of the state of Nevada,
15 NRS Chapter 630 and NRS Chapter 233B that may be available to her or that may apply to her in
16 connection with the proceedings on the Complaint filed herein, the defense of said Complaint, the
17 adjudication of the charges in said Complaint, and the imposition of sanctions, and Respondent further
18 agrees that the matter of the disciplinary action commenced by the Complaint herein may be settled and
19 resolved in accordance with this Agreement without a hearing or any further proceeding, and without the
20 right to judicial review.

21 4. **No Admission of Liability**. This Agreement is neither an admission of liability by
22 Respondent nor a concession by the IC that its claims as alleged in the underlying Complaint are not
23 well founded.

24 5. **Consent to Entry of Order**. In order to resolve the matter of these disciplinary
25 proceedings pending against her without any further costs and expense of providing a defense to the
26 Complaint, or to an Amended Complaint, Respondent hereby agrees, and does not contest, that an order
27 may be entered herein by the Board finding that there is evidence Respondent may have engaged in
28 conduct that may be grounds for discipline pursuant to the Medical Practice Act, to wit: that in treating the

1 patient referenced in the original Complaint filed by the IC, Respondent failed to use the reasonable care,
2 skill or knowledge ordinarily used in similar circumstances, a violation of NRS 630.301(4), and that
3 Respondent shall be publicly reprimanded in this regard. Further, Respondent shall reimburse the Board
4 the reasonable costs and expenses incurred in the investigation and prosecution of this case in the current
5 amount of \$2,292.19, 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 Examiners
7 within ninety (90) days of the acceptance, adoption and approval of this Agreement by the Board. A
8 final accounting of the additional costs will be provided to Respondent in the entry of the Board's Order
9 relating to the matter.

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

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

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, the Board will enter
3 an order consistent with the terms noted previously in paragraph number 5, and dismissing the
4 underlying Complaint.

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

15 10. Binding Effect. Respondent covenants and agrees that this Agreement is a binding and
16 enforceable contract upon Respondent and the Board's IC, which contract may be enforced in a court or
17 tribunal having jurisdiction. Further, failure to comply with the terms recited herein may result in
18 additional disciplinary action being initiated against Respondent for a violation of an order of the Board
19 in accordance with NRS 630.3065(2)(a). Additionally, failure to pay any fine, fee, or cost ordered herein
20 may also result in such legal action as determined to be necessary to collect the unpaid fine, fee or cost.

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

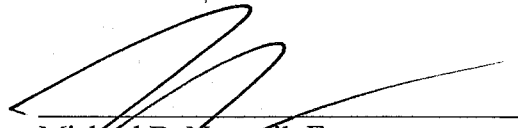
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1 12. Attorney's Fees and Costs. Respondent covenants and agrees that in the event an
2 action is commenced in the district court to enforce any provision of this Agreement, the prevailing
3 party shall be entitled to recover reasonable costs and attorneys' fees.
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5 Dated this 22nd day of August, 2012.

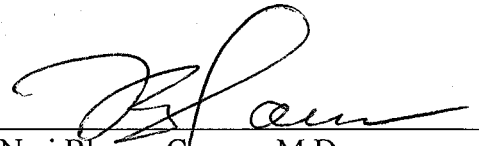
Dated this 9 day of August, 2012.

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8 Edward O. Cousineau, Esq.
9 Attorney for the Investigative Committee
of the Nevada State Board of Medical Examiners

Michael D. Navratil, Esq.
Attorney for Neri Blanco-Cuevas, M.D.

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11 Neri Blanco-Cuevas, M.D.
12 Respondent
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1 **IT IS HEREBY ORDERED** that the foregoing Settlement Agreement is approved and accepted by the
2 Nevada State Board of Medical Examiners on the 7th day of September 2012, with the final total
3 amount of costs due of \$2,292.19.



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