

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

3 \* \* \* \* \*

4  
5  
6 **In the Matter of Charges and** ) **Case No. 13-31149-1**  
7 )  
8 **Complaint Against** ) **FILED**  
9 **MOHAMED OMAR SALEH, M.D.,** ) **SEP 06 2013**  
10 **Respondent.** ) **NEVADA STATE BOARD OF**  
11 ) **MEDICAL EXAMINERS**  
By: \_\_\_\_\_

12 **SETTLEMENT AGREEMENT**

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

18 **WHEREAS**, on January 10, 2013, the Board's IC filed a formal Complaint in the  
19 above-referenced matter charging Respondent with engaging in conduct that is grounds for  
20 discipline pursuant to the Nevada Medical Practice Act (MPA), Chapter 630 of the  
21 Nevada Revised Statutes (NRS), to wit: Count I, one count of any disciplinary action, including,  
22 without limitation, the revocation, suspension, modification or limitation of a license to practice  
23 any type of medicine, taken by another state, a violation of NRS 630.301(3); Count II, one count  
24 of conviction of a violation of any federal or state law regulating the possession, distribution or  
25 use of any controlled substance or any dangerous drug, a violation of NRS 630.301(11)(f);  
26 Count III, one count of administering, dispensing or prescribing any controlled substance to others  
27 except as authorized by law, a violation of NRS 630.306(3); Count IV, one count of engaging in  
28 conduct that brings the medical profession into disrepute, a violation of NRS 630.301(9).

1           **WHEREAS**, Respondent has received a copy of the formal Complaint, reviewed it and  
2 understands it. Respondent is fully aware concerning his rights and defenses to the formal  
3 Complaint, as well as the possible sanctions that may be imposed if the Board finds and concludes  
4 that he has engaged in conduct that is grounds for discipline pursuant to the MPA;

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

11           **WHEREAS**, Respondent understands and agrees that if the Board approves the terms,  
12 covenants and conditions of this Agreement, then the terms, covenants and conditions enumerated  
13 below shall be binding and enforceable upon him.

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

17           1.     **Jurisdiction.** Respondent is, and was at all times mentioned in the formal  
18 Complaint filed in the above-captioned matter, a physician licensed to practice medicine in the  
19 state of Nevada subject to the jurisdiction of the Board to hear and adjudicate charges of violations  
20 of the MPA, and to impose sanctions as provided by the MPA.

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

22           Respondent acknowledges that he is not represented by counsel and wishes to proceed  
23 towards a resolution of this matter, as set forth in this Agreement, without counsel. Respondent  
24 understands and acknowledges that he may retain and consult counsel prior to entering into this  
25 Agreement. Respondent agrees that if counsel is retained for representation in this matter prior to  
26 entering into this Agreement, that counsel for the IC will be informed of such representation prior  
27 to Respondent executing this Agreement. Respondent covenants and agrees that he enters into this  
28 Agreement knowingly, willingly and intelligently.

1           **3.     Waiver of Rights.**     Respondent waives all rights in connection with this  
2 Agreement, and the terms, covenants and conditions contained herein, and with the understanding  
3 that Respondent knowingly, willingly and intelligently waives all rights arising under or pursuant  
4 to the United States Constitution, the constitution of the state of Nevada, the MPA,  
5 NRS Chapter 233B, and any other statutory rights that may be available to him or that may apply  
6 to him in connection with the proceedings on the formal Complaint filed herein, the defense of  
7 said formal Complaint and the adjudication of the charges in said formal Complaint.

8           Respondent agrees that the matter of the formal Complaint herein may be settled and  
9 resolved in accordance with this Agreement without a hearing or any further proceedings, and  
10 without the right to judicial review. In the event this Agreement is not approved by the Board, this  
11 Agreement shall have no force and effect and shall be *void ab initio*, and Respondent shall have all  
12 rights arising under or pursuant to the United States Constitution, the constitution of the state of  
13 Nevada, the MPA, NRS Chapter 233B, and any other statutory rights that may be available to him  
14 or that may apply to him in connection with the proceeding on the formal Complaint filed herein.

15           **4.     Consent to Entry of Order.**     In order to resolve the matter of these disciplinary  
16 proceedings pending against him without incurring any further costs and expense of providing a  
17 defense to the formal Complaint, Respondent hereby agrees that the Board may issue an order  
18 finding that Respondent engaged in conduct that is grounds for discipline pursuant to the  
19 MPA, and agrees that:

20                   a.     The Board may find that Respondent engaged in conduct that is grounds for  
21 discipline pursuant to the MPA, to wit: any disciplinary action, including, without limitation, the  
22 revocation, suspension, modification or limitation of a license to practice any type of medicine, a  
23 violation of NRS 630.301(3), as set forth in Count I of the formal Complaint;

24                   b.     Respondent shall receive a public reprimand;

25                   c.     Pursuant to NRS 622.400, Respondent shall reimburse the Board the sum of  
26 \$1,932.30, the current amount of the costs and fees incurred by the Board to investigate and  
27 prosecute this matter, along with the costs to conclude the matter, if any. The costs shall be paid  
28 to the Board within ninety (90) days of the Board's acceptance and approval of this Agreement;

1           d.       Respondent shall complete ten (10) hours of Continuing Medical Education  
2 (CME) related to opioid prescribing and/or pain management, in-person. The ten (10) hours of  
3 CME are in addition to any CME requirements that are regularly imposed upon Respondent as a  
4 condition of licensure in the state of Nevada and shall be completed within one (1) year of the  
5 Board's acceptance and approval of this Agreement;

6           e.       Respondent shall apply for full prescribing privileges with the Nevada State  
7 Board of Pharmacy at such time as he returns to Nevada to practice medicine;

8           f.       Counts II, III and IV of the Complaint shall be dismissed; and,

9           g.       The terms of this Agreement shall be reported as required by law.

10         **5.       Release From Liability.** In execution of this Agreement, the Respondent, for  
11 himself, his 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  
13 employees in their representative capacities, and in their individual capacities, from any and all  
14 manner of actions, causes of action, suits, debts, judgments, executions, claims and demands  
15 whatsoever, known and unknown, in law or equity, that Respondent ever had, now has, may have  
16 or claim to have, against any or all of the persons or entities named in this paragraph arising out of  
17 or by reason of this investigation, this Agreement or its administration.

18         **6.       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 formal Complaint pending herein against Respondent. In the course of  
21 seeking Board approval, adoption and/or acceptance of this Agreement, counsel for the IC may  
22 communicate directly with the Board staff and members of the panel of the Board who would  
23 adjudicate this case if it were to go to hearing.

24         Respondent acknowledges that such contacts and communication may be made or  
25 conducted ex parte, without notice or opportunity to be heard on his part, or on the part of his  
26 counsel, if any, until the public Board meeting where this Agreement is discussed, and that such  
27 contacts and communications may include, but not be limited to, matters concerning this  
28 Agreement, the formal Complaint, and any and all information of every nature whatsoever related

1 to the formal Complaint or the proceedings herein against Respondent. The IC and its counsel  
2 agree that Respondent and/or his counsel, if any, may appear at the Board meeting where this  
3 Agreement is discussed, and if requested, respond to any questions that may be addressed to the IC  
4 or its counsel.

5 **7. Effect of Acceptance of Agreement by Board.** In the event the Board approves,  
6 accepts and adopts the terms, covenants and conditions set out in this Agreement, counsel for the  
7 IC will cause to be entered herein the Board's order accepting, adopting and approving this  
8 Agreement, ordering full compliance with the terms herein and ordering that this case be closed,  
9 subject to the provisions in Paragraph 4.

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

20 **9. Binding Effect.** If this Agreement is approved by the Board, Respondent  
21 covenants and agrees that this Agreement is a binding and enforceable contract upon Respondent  
22 and the Board's IC, which contract may be enforced in a court or tribunal having jurisdiction.

23 **10. 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, he consents to  
25 such jurisdiction, and covenants and agrees that exclusive jurisdiction shall be in the  
26 Second Judicial District Court of the state of Nevada in and for the county of Washoe.

27 ///


28 ///


1           **11. Attorneys' 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  
3 prevailing party shall be entitled to recover costs and reasonable attorneys' fees.

4           **12. Failure to Comply With Terms.** In the event the Board enters its order approving  
5 this Agreement, should Respondent fail to comply with any term or condition recited herein, the  
6 Board shall be authorized to immediately suspend Respondent's license to practice medicine in the  
7 state of Nevada pending an order to show cause hearing which will be duly noticed. The Board  
8 would also have grounds, after notice and a hearing, to take disciplinary action against  
9 Respondent, including but not limited to, potential revocation of Respondent's license to practice  
10 medicine in the state of Nevada and/or any other discipline authorized by the MPA. In addition,  
11 Respondent shall be subject to the discipline outlined herein for a violation of an order of the  
12 Board in accordance with NRS 630.3065(2)(a). Moreover, the failure of Respondent to reimburse  
13 the Board for monies agreed to be paid as a condition of settlement may subject Respondent to  
14 civil collection efforts.


15 Dated this 14<sup>th</sup> day of August, 2013.


Dated this 9<sup>th</sup> day of Aug, 2013.

16  
17 By:   
18 Bradley O. Van Ry, Esq.  
19 Attorney for the Investigative Committee

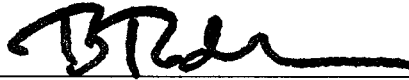
By:   
Mohamed Omar Saleh, M.D.  
Respondent

20  
21 Subscribed and sworn to before me  
22 this 9 day of AUGUST 2013.

23   
24 Notary Public

25  
26  Colley B. Court  
27 State of Florida  
28 MY COMMISSION # FF 8073  
Expires: April 14, 2017

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 6<sup>th</sup> day of September 2013, with the final total  
3 amount of costs due of \$1,932.30.

4 

5 \_\_\_\_\_  
6 Benjamin J. Rodriguez, M.D., President  
7 NEVADA STATE BOARD OF MEDICAL EXAMINERS  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28