

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
1105 Terminal Way #301
Reno, Nevada 89502
(775) 688-2559

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

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In the Matter of Charges and)
Complaint Against)
LISA M. COHEN, M.D.,)
Respondent.)

Case No. 15-33456-1

FILED

SEP 09 2016

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

By: _____

SETTLEMENT AGREEMENT

The Investigative Committee ("IC") of the Nevada State Board of Medical Examiners ("Board"), by and through Robert Kilroy, Esq., Board General Counsel and attorney for the IC, and Lisa M. Cohen, M.D. ("Respondent"), a licensed physician in Nevada, represented by David J. Mortensen, Esq., of the law firm Alverson, Taylor, Mortensen & Sanders, hereby enter into this Settlement Agreement ("Agreement") based upon the following:¹

A. Background

1. Respondent is a physician licensed by the Board, pursuant to Chapter 630 of the Nevada Revised Statutes ("NRS") and Chapter 630 of the Nevada Administrative Code ("NAC") (collectively, the "Medical Practice Act"), to practice medicine in Nevada since December 12, 2008 (License No. 12977). Respondent also maintains medical licenses in approximately twenty-six (26) other states. Respondent's primary practice location is in Massachusetts.

2. On or about February 19, 2015, Respondent's medical license in the Commonwealth of Massachusetts was admonished for Respondent's alleged failure to furnish the

¹ All agreements and admissions made by Respondent are solely for final disposition of this matter and any subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, Respondent's agreements and admissions 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 proceeding, any state or federal court proceeding, or any credentialing or privileges matter.

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1 Board of Registration in Medicine for the Commonwealth of Massachusetts (“Massachusetts
2 Medical Board”), its investigators or representatives information to which it was entitled.
3 Specifically, on her 2011 licensure renewal application in Massachusetts, Respondent responded
4 to Question 17(a) in the negative when she arguably should have responded in the affirmative.
5 Question 17(a) asked whether Respondent had been charged with any criminal offense.
6 Respondent had been arrested on or about May 30, 2010, and charged with a motor vehicle-related
7 offense for which she was placed on probation. The probation was ultimately terminated without
8 incident on December 30, 2011.

9 3. Pursuant to NRS 630.301(3), the IC may initiate disciplinary action against a
10 licensee of the Board when it finds another state has taken disciplinary action against the licensee.

11 4. On or about June 14, 2016, the Board filed its First Amended Complaint (Case No.
12 15-33456-1) based upon the Massachusetts Medical Board’s disciplinary action.

13 5. By reason of the foregoing, Respondent is subject to discipline by the Board as
14 provided in NRS 630.352.

15 6. Respondent was properly served with a copy of the First Amended Complaint, has
16 reviewed and understands the First Amended Complaint, and has had the opportunity to consult
17 with competent counsel concerning the nature and significance of the First Amended Complaint.

18 7. Respondent is hereby advised of her rights regarding this administrative matter,
19 and of her opportunity to defend against the allegations in the First Amended Complaint.
20 Specifically, Respondent has certain rights in this administrative matter as set out by the United
21 States Constitution, the Nevada Constitution, the Medical Practice Act, and the Nevada
22 Administrative Procedure Act (“APA”), which is contained in NRS Chapter 233B. These rights
23 include the right to a formal hearing on the allegations in the First Amended Complaint, the right
24 to representation by counsel, at her own expense, in the preparation and presentation of her
25 defense, the right to confront and cross-examine the witnesses and evidence against her, the right
26 to written findings of fact, conclusions of law and order reflecting the final decision of the Board,
27 and the right to judicial review of the Board’s order, if the decision is adverse to her.

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1 8. Respondent understands that, under the Board's charge to protect the public by
2 regulating the practice of medicine, the Board may take disciplinary action against Respondent's
3 license, including probation, suspension, revocation, and or imposition of administrative fines, as
4 well as any other reasonable requirement or limitation, if the Board concludes that Respondent
5 violated one or more provisions of the Medical Practice Act.

6 9. Respondent understands and agrees that this Agreement, by and between
7 Respondent and the IC, is not with the Board, and that the IC will present this Agreement to the
8 Board for consideration in open session at a duly noticed and scheduled meeting. Respondent
9 understands that the IC shall advocate for the Board's approval of this Agreement, but that the
10 Board has the right to decide in its own discretion whether or not to approve this Agreement.
11 Respondent further understands and agrees that if the Board approves this Agreement, then the
12 terms and conditions enumerated below shall be binding and enforceable upon her and the Board.

13 **B. Terms & Conditions**

14 **NOW, THEREFORE,** in order to resolve the matters addressed herein (i.e., the matters
15 with regard to the First Amended Complaint), Respondent and the IC hereby agree to the
16 following terms and conditions:

17 1. **Jurisdiction.** Respondent is, and at all times mentioned in the
18 First Amended Complaint filed in the above-captioned matter was, a physician licensed to practice
19 medicine in the state of Nevada subject to the jurisdiction of the Board as set forth in the Medical
20 Practice Act.

21 2. **Representation by Counsel/Knowing, Willing and Intelligent Agreement.**
22 Respondent is represented by above-identified legal counsel in this matter and has had ample
23 opportunity to review this Agreement, the First Amended Complaint filed in this matter and the
24 related factual basis with said legal counsel, David J. Mortensen, Esq. Respondent covenants and
25 agrees that she knowingly, willingly and intelligently enters into this Agreement.

26 3. **Waiver of Rights.** In connection with this Agreement, and the associated terms
27 and conditions, Respondent knowingly, willingly and intelligently waives all rights in connection
28 with this administrative matter. Respondent hereby knowingly, willingly and intelligently waives

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1 all rights arising under the United States Constitution, the Nevada Constitution, the Medical
2 Practice Act, the APA, and any other legal rights that may be available to her or that may apply to
3 her in connection with the administrative proceedings resulting from the First Amended
4 Complaint filed in this matter, including defense of the First Amended Complaint, adjudication of
5 the allegations set forth in the First Amended Complaint, and imposition of any disciplinary
6 actions or sanctions ordered by the Board. Respondent agrees to settle and resolve the allegations
7 of the First Amended Complaint as set out by this Agreement without a hearing or any further
8 proceedings, and without the right to judicial review. In the event this Agreement is not approved
9 by the Board, this Agreement shall have no force and effect and shall be *void ab initio*, and
10 Respondent shall have all rights arising under or pursuant to the United States Constitution, the
11 Constitution of the state of Nevada, the Medical Practice Act, and APA, and any other statutory
12 rights that may be available to her or that may apply to her in connection with the proceedings on
13 the First Amended Complaint filed herein.

14 4. **Acknowledgement of Reasonable Basis to Proceed.** Respondent acknowledges
15 that the IC believes it has a reasonable basis to allege that Respondent engaged in conduct that is
16 grounds for discipline pursuant to the Medical Practice Act. The Board acknowledges Respondent
17 is admitting that the Board's claims/counts as alleged in the First Amended Complaint have merit
18 and Respondent is agreeing to resolve this matter to avoid the costs of hearing and potential
19 subsequent litigation. Respondent asserts if this matter were to proceed to hearing, she has
20 evidence, witnesses, expert witness(es) and defenses to the counts/claims alleged in First
21 Amended Complaint, but for the purposes of resolving the matter and for no other purpose,
22 Respondent waives the presentation of evidence, witnesses, expert witnesses, and defenses in
23 order to effectuate this Agreement.

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 First Amended Complaint, Respondent hereby agrees that the Board may issue an order finding that
27 Respondent has engaged in conduct that is grounds for discipline pursuant to the MPA, and agrees
28 that:

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1 a. The Board may find that Respondent engaged in conduct that is grounds for
2 discipline pursuant to the Medical Practice Act, to wit: disciplinary action taken against her
3 medical license in Massachusetts, a violation of NRS 630.301(3);

4 b. Respondent shall be issued a public reprimand;

5 c. Respondent shall reimburse to the Board the sum of \$1,703.49, the current
6 amount of the costs incurred by the Board to investigate and prosecute this matter, along with the
7 costs to conclude the matter, if any. The costs shall be paid to the Board within sixty (60) days of
8 the Board's acceptance and approval of this Agreement; and

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

10 6. Release From Liability. In execution of this Agreement, the Respondent, for
11 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
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 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 First Amended Complaint pending herein against Respondent. In the
21 course of seeking Board approval, adoption and/or acceptance of this Agreement, counsel for the
22 IC may communicate directly with the Board staff and members of the panel of the Board who
23 would adjudicate this case if it were to go to hearing.

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

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

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

20 **10. Binding Effect.** Providing 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 **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 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.

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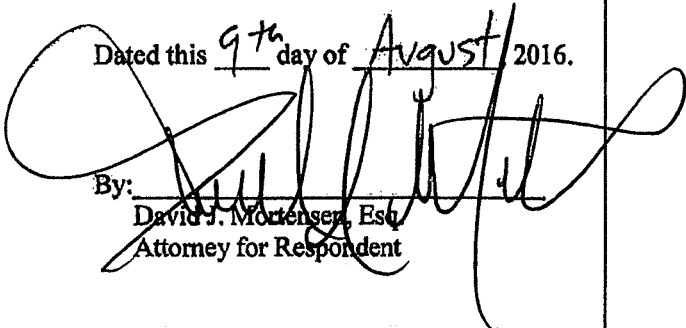
12. Attorneys' Fees and Costs. Respondent covenants and agrees that in the event an action is commenced in the district court to enforce any provision of this Agreement, the prevailing party shall be entitled to recover costs and reasonable attorneys' fees.

13. Failure to Comply with Terms. In the event the Board enters its order approving this Agreement, should Respondent fail to comply with any term or condition recited herein, the Board shall be authorized to immediately suspend Respondent's license to practice medicine in the state of Nevada pending an order to show cause hearing, which will be duly noticed. Further, 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). Moreover, the failure of Respondent to reimburse the Board for monies agreed to be paid as a condition of settlement may subject Respondent to civil collection efforts.

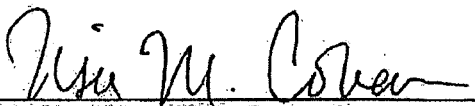
Dated this 23 day of JUNE, 2016.

Dated this 9th day of August, 2016.

By: 
Robert Kilroy, Esq.
Attorney for the Investigative Committee

By: 
David J. Mortensen, Esq.
Attorney for Respondent

UNDERSTOOD AND AGREED:


Lisa M. Cohen, M.D., Respondent

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 9th day of September 2016, with the final total
3 amount of costs due of \$1,703.49.

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6 Michael J. Fischer, M.D., President
NEVADA STATE BOARD OF MEDICAL EXAMINERS

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