BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

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

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:

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

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

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

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

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

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

7. Respondent is hereby advised of her rights regarding this administrative matter, and of her opportunity to defend against the allegations in the First Amended Complaint. Specifically, Respondent has certain rights in this administrative matter as set out by the United States Constitution, the Nevada Constitution, the Medical Practice Act, and the Nevada Administrative Procedure Act ("APA"), which is contained in NRS Chapter 233B. These rights include the right to a formal hearing on the allegations in the First Amended Complaint, the right to representation by counsel, at her own expense, in the preparation and presentation of her defense, the right to confront and cross-examine the witnesses and evidence against her, the right to written findings of fact, conclusions of law and order reflecting the final decision of the Board, and the right to judicial review of the Board’s order, if the decision is adverse to her.
8. Respondent understands that, under the Board's charge to protect the public by regulating the practice of medicine, the Board may take disciplinary action against Respondent's license, including probation, suspension, revocation, and or imposition of administrative fines, as well as any other reasonable requirement or limitation, if the Board concludes that Respondent violated one or more provisions of the Medical Practice Act.

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

B. Terms & Conditions

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

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

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

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

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

5. **Consent to Entry of Order.** In order to resolve the matter of these disciplinary
proceedings pending against her without any further costs and expense of providing a defense to the
First Amended Complaint, Respondent hereby agrees that the Board may issue an order finding that
Respondent has engaged in conduct that is grounds for discipline pursuant to the MPA, and agrees
that:
a. The Board may find that Respondent engaged in conduct that is grounds for discipline pursuant to the Medical Practice Act, to wit: disciplinary action taken against her medical license in Massachusetts, a violation of NRS 630.301(3);

b. Respondent shall be issued a public reprimand;

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

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

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

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

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

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

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

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

11. **Forum Selection Clause.** Respondent covenants and agrees that in the event either party is required to seek enforcement of this Agreement in the district court, she consents to such jurisdiction, and covenants and agrees that exclusive jurisdiction shall be in the 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.  

By: 

[Signature]

Robert Kilney, Esq.  
Attorney for the Investigative Committee

Dated this **9**th day of **August**, 2016.  

By: 

[Signature]

David J. Madsen, Esq.  
Attorney for Respondent

UNDERSTOOD AND AGREED:

[Signature]

Lisa M. Cohen, M.D., Respondent
IT IS HEREBY ORDERED that the foregoing Settlement Agreement is approved and accepted by the Nevada State Board of Medical Examiners on the 9th day of September 2016, with the final total amount of costs due of $1,703.49.

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