

FILED

JUN - 7 2016

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

By: _____

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

* * * * *

In the Matter of Charges and Complaint Against)	
)	Case No.: 14-12899-1
)	
RONALD FOOTE, M.D.,)	
)	
Respondent.)	

In the Matter of the Investigation of)	
)	Case No.: 14-15074
)	
RONALD FOOTE M.D.,)	
)	
)	
License No. 9240.)	

SETTLEMENT AGREEMENT AND ORDER LIFTING SUSPENSION

THIS AGREEMENT is hereby entered into by and between the Nevada State Board of Medical Examiners ("Board"), by and through Robert Kilroy, Esq., General Counsel for the Nevada State Board of Medical Examiners, and Ronald Foote, M.D. (Respondent), as follows:

WHEREAS, on May 30, 2014, Respondent entered into a Stipulation for Indefinite Summary Suspension with the Nevada State Board of Medical Examiners (hereinafter "Board"), in Case No. 14-12899-1. In that Stipulation for Indefinite Summary Suspension, the Investigative Committee of the Board ("IC") noted that it had been investigating several complaints against Ronald Foote, M.D. ("Dr. Foote"). As a result of those investigations, Dr. Foote advised the Board of his intent to enter into an addiction recovery program which would be for an indefinite term of inpatient treatment. In order to protect the public and allow Dr. Foote to attend to his personal recovery, Dr. Foote stipulated with the Board to an indefinite suspension of Dr. Foote's license to practice medicine in the State of Nevada. According to said Stipulation for Indefinite Summary Suspension, Dr. Foote's license to practice medicine was suspended indefinitely until further Order of the Board, Order of the Investigative Committee, or Written Agreement of the Parties.

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WHEREAS, on July 14, 2014, the Board filed a formal complaint against Dr. Foote in Case No. 14-12899-1, charging Respondent with engaging in conduct that is grounds for discipline pursuant to the Nevada Medical Practice Act (MPA), i.e., Chapter 630 of the Nevada Revised Statutes (NRS) and the Nevada Administrative Code (NAC), to wit: Count I: Willful Failure to Comply with an Order of the Board; and Count II: Engaging in Conduct That Brings the Medical Profession into Disrepute.

WHEREAS, Respondent received a copy of the formal Complaint in Case No. 14-12899-1, reviewed it, understands it, and consulted with competent counsel, L. Kristopher Rath, Esq., concerning the nature and significance of the formal Complaint. Respondent is fully advised concerning his rights and defenses to the formal Complaint, as well as the possible sanctions that may be imposed if the Board finds and concludes that he violated one or more provisions of the MPA; and,

WHEREAS, the Board also has a pending investigation regarding Dr. Foote in Case No. 14-15074. In said investigation, it was alleged that Dr. Foote may be engaging or may have engaged in sexual relationships with certain patients while he was their treating physician. Dr. Foote responded to the allegations in Case No. 14-15074, denying said allegations and providing evidentiary support for his denials.

WHEREAS, Respondent understands and agrees that he has certain rights under the United States Constitution and the Constitution of the State of Nevada, as well as under the MPA and the Nevada Administrative Procedures Act (NRS Chapter 233B), including, but not limited to, the right to a formal hearing on the charges against him, the right to representation by counsel in the preparation and presentation of his defense, the right to confront and cross-examine the witnesses against him, the right to written findings, conclusions and an order regarding a final decision by the Board, and the right to judicial review of any final decision by the Board that is adverse to him; and,

WHEREAS, Respondent and the Board wish to settle and resolve the claims at issue in the Complaint in Case No.: 14-12899-1, as well as the claims and allegations in the Investigation in Case No. 14-15074, and intend to resolve said claims and allegations through this Settlement

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Agreement and Order Lifting Suspension (hereinafter "Agreement"), pursuant to the terms and conditions set forth herein.

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

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

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

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

2. **Representation by Counsel/Knowing, Willing and Intelligent Agreement.**
Respondent is represented by above-identified counsel herein, whom Respondent covenants and agrees is fully capable, competent and fully advised in these circumstances, and Respondent further covenants and agrees that he enters into this Agreement knowingly, willingly and intelligently after full consultation with and upon advice of above-identified counsel.

3. **Waiver of Rights.** In connection with this Agreement, and the terms, covenants and conditions contained herein, Respondent knowingly, willingly and intelligently, with the advice of above-identified counsel, waives all rights in connection with this Agreement, and the terms, covenants and conditions contained herein, and with the understanding that Respondent knowingly, willingly and intelligently waives all rights arising under or pursuant to the United States Constitution, the Constitution of the State of Nevada, the MPA, NRS Chapter 233B, and any other

statutory rights that may be available to him or that may apply to him in connection with the proceedings on the formal Complaint filed herein, the defense of said formal Complaint, the adjudication of the charges in said formal Complaint, and the imposition of sanctions.

Respondent agrees that the matter of the formal Complaint and Investigation herein may be settled and resolved in accordance with this Agreement without a hearing or any further proceedings, and without the right to judicial review.

4. **Acknowledgement of Reasonable Basis to Proceed.** Respondent covenants and agrees that the Board's IC has a reasonable basis to believe that Respondent engaged in one or more instances of conduct that is grounds for discipline pursuant to the provisions of the MPA.

5. **Consent to Entry of Order.** Respondent concedes only that the Board has sufficient evidence to proceed with its formal complaint in Case No. 14-12899-1 against him, but does not concede or admit to such allegations, which he expressly denies, and which but for his desire to reach this compromise, he would request a formal hearing of this matter. Respondent concedes that the Board might have sufficient evidence to proceed with a formal complaint in Case No. 14-15074, but denies the allegations in that investigation. The Board acknowledges that it has not filed a formal complaint in Investigation Case No. 14-15074; however, the terms and conditions set forth in this Agreement will fully address the Board's concerns with the allegations in Case No. 14-15074. In order to resolve the matter of these disciplinary proceedings and the investigative proceedings pending against him without incurring any further costs and expense of providing a defense to the Formal Complaint and Investigation, Respondent hereby agrees¹ that the Board may issue an Order finding that Respondent engaged in conduct that is grounds for discipline pursuant to the MPA, to wit: One Count of Willful Failure to Comply With an Order of the Board Pursuant to NRS 630.3065 (2)(a).

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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 the Respondent. Therefore, said agreements and 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 proceeding, or any other state or federal court proceeding, or any credentialing or privileges matter.

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For the aforementioned violation, Respondent shall:

a. Have his license to practice medicine suspended for two years, effective May 30, 2014. Respondent shall receive credit for serving two years of the suspension pursuant to his Stipulation for Indefinite Summary Suspension which was ordered on May 30, 2014. Accordingly, upon approval of this Stipulation by the Board on June 3, 2016, this two-year suspension shall conclude and be lifted effective 5 PM, Pacific Daylight Time, on June 3, 2016.

b. Respondent shall receive a Public Letter of Reprimand;

c. Pursuant to NRS 622.400, Respondent shall reimburse to the Board the sum of \$ APPROXIMATELY 2,500.00, the current amount of costs incurred by the Board to investigate and prosecute these matters, along with the cost to conclude the matters, if any. The cost shall be paid to the Board in two installments of equal amounts with the first due on six (6) months after the Board's approval (Approval Date) and the second installment due one year following the Approval Date;

d. Respondent further agrees that he will continue all recovery and monitoring activities with the Nevada Physician Health Program and Dr. Peter Mansky for at least the next five years.² After five years, Dr. Foote may petition the Board to lift this requirement;

e. On the lifting of the Summary Suspension, Dr. Foote agrees to the following limitations on his practice:

(i). Dr. Foote will not be allowed to work in a setting where he is alone with female patients. Dr. Foote will only be permitted to treat female patients when he has a verifiable chaperone present to observe Dr. Foote's treatment and interactions with female patients. The name of said chaperone is to be documented and indicated within each medical record.

² Dr. Foote has signed an agreement with the Nevada Professionals Assistance Program (NPAP) which includes a monitoring agreement, including toxicology monitoring, behavioral monitoring, mutual help group attendance monitoring, and treatment monitoring. This agreement will continue for at least the next five years. After that five-year period, Dr. Foote may petition the Board for discontinuance of this agreement or modification of this agreement.

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(ii). Dr. Foote will obtain therapy with a certified sex addiction therapist or equivalent on at least a monthly basis;

(iii). The Board may monitor limitation (ii) above for at least one year. After one year, Dr. Foote may petition the Board to lift the limitations set forth in this paragraph.

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

6. **Release from Liability.** In execution of this Agreement, the Respondent, for himself, his 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 demand 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 formal Complaint and investigation 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 the adjudicating members of the Board.

Respondent acknowledges that such contacts and communication may be made or conducted ex parte, without notice or opportunity to be heard on his part or on the part of his 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 formal Complaint, the Investigation, and any and all information of every nature whatsoever related to the formal Complaint or the proceedings herein against Respondent. The IC and its counsel agree that Respondent and/or his counsel may appear at the Board meeting when 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 the Board's order accepting, adopting and approving this Agreement to be entered herein, ordering full compliance with the terms herein and ordering that this case be closed, subject to the provisions in Paragraph 5.

9. **Effect of Rejection of Agreement by Board.** In the event the Board does not accept, approve 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 he shall not seek to disqualify any such member absent evidence of bad faith.

10. **Binding Effect.** If 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. Further, this Agreement shall inure to the benefit of and be binding upon each of the parties hereto and their respective heirs, personal representatives, assigns and successors in interest of each party and shall resolve any and all matters, actions and investigations, including specifically, BME Investigative Case No. 14-15074 and any other Board investigations that were open and/or pending on or before May 1, 2016. The above-listed open and/or pending investigations and matters shall be deemed closed with no Board action and no admissions by Respondent.

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, he consents to such jurisdiction, and covenants and agrees that exclusive jurisdiction shall be in the Second Judicial District Court of the State of Nevada and for the County of Washoe.

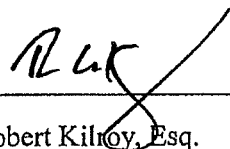
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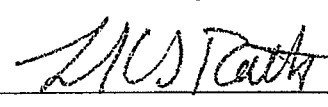
12. **Attorneys' Fees and Costs.** Respondent covenants and agrees that in the event any action is commenced in the District Court to enforce any provision of this Agreement, the prevailing party shall be entitled to recover costs and reasonable attorneys' fees.

13. **Failure to Comply With Terms.** In the event the Board enters its order approving, accepting and adopting 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 and scheduled. 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.

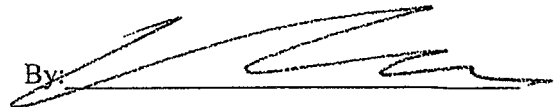
Dated this 2 day of JUNE, 2016.

By: 
Robert Kilroy, Esq.
Attorney for Medical Board

Dated this 2nd day of June, 2016.

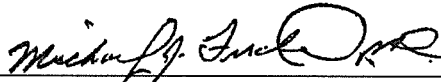
By: 
L. Kristopher Rath, Esq.
Attorney for Respondent

UNDERSTOOD AND AGREED:

By: 
Ronald Foote, M.D., Respondent

Dated this 2 day of June, 2016.

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 third day of June 2016, with the final total amount of
3 costs due of \$2,500.00.

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