

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

3                                   \* \* \* \* \*

4  
5   **In the Matter of Charges and**  
6   **Complaint Against**  
7   **Poupak P. Ziaei, M.D.,**  
8   **Respondent.**

Case No. 17-32905-1

FILED

DEC - 4 2017

NEVADA STATE BOARD OF  
MEDICAL EXAMINERS

By: 

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10                                   **SETTLEMENT AGREEMENT**

11                   The Investigative Committee (IC) of the Nevada State Board of Medical Examiners  
12 (Board), by and through Robert Kilroy, Esq., General Counsel for the Board and IC, and  
13 Poupak P. Ziaei, M.D. (Respondent), formerly a licensed medical doctor in Nevada, represented  
14 by Monte Neil Stewart, Esq., of Wright, Stanish & Winckler, hereby enter into this Settlement  
15 Agreement (Agreement) based on the following:<sup>1</sup>

16   **A. Background**

17                   1.       Respondent is a physician who was licensed by the Board, pursuant to Chapter 630 of  
18 the Nevada Revised Statutes (NRS) and Chapter 630 of the Nevada Administrative Code (NAC)  
19 (collectively, the Medical Practice Act), to practice medicine in Nevada on November 14, 2007  
20 (License No. 12525). Respondent failed to renew her license to practice medicine in June, 2017 and  
21 is currently not licensed.

22                   2.       On April 11, 2017, the IC filed a formal Complaint (Complaint) charging Respondent  
23 with violating the Medical Practice Act. The Complaint alleges: one violation of NRS 630.304(1)  
24 (renewing license by fraud or misrepresentation); three violations of NRS 630.306(1)(l) (failure to  
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26                   <sup>1</sup> All agreements and admissions made by Respondent are solely for final disposition of this matter and any  
27 subsequent related administrative proceedings or civil litigation involving the Board and Respondent.  
28 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.

1 report criminal action); two violations of NRS 630.306(1)(b)(1) (engaging in conduct which is  
2 intended to deceive); one violation of NRS 630.301(9) (engaging in conduct that brings the medical  
3 profession into disrepute); three violations of NRS 630.306(1)(b)(3) (engaging in conduct which is in  
4 violation of a regulation adopted by the State Board of Pharmacy); one violation of NRS 630.3062(1)  
5 (failure to maintain timely, legible, accurate and complete medical records); one violation of NRS  
6 630.306(1)(a) (inability to practice medicine with reasonable skill and safety); and one violation of  
7 NRS 630.306(1)(m) (failure to be found competent to practice medicine as a result of an examination  
8 to determine medical competency pursuant to NRS 630.318).

9           3.       By reason of the aforementioned allegations, the Respondent is subject to discipline by  
10 the Board as provided in NRS 630.352.

11           4.       Respondent was properly served with a copy of this Complaint, has reviewed and  
12 understands this Complaint, and has had the opportunity to consult with counsel of her choosing  
13 concerning the nature and significance of this Complaint.

14           5.       Respondent is hereby advised of her rights regarding this administrative matter, and of  
15 her opportunity to defend against the allegations in the Complaint. Specifically, Respondent has  
16 certain rights in this administrative matter as set out by the United States Constitution, the Nevada  
17 Constitution, the Medical Practice Act, the Nevada Open Meeting Law (OML), which is contained in  
18 NRS Chapter 241, and the Nevada Administrative Procedure Act (APA), which is contained in NRS  
19 Chapter 233B. These rights include the right to a formal hearing on the allegations in the Complaint,  
20 the right to representation by counsel, at her own expense, in the preparation and presentation of her  
21 defense, the right to confront and cross-examine the witnesses and evidence against her, the right to  
22 written findings of fact, conclusions of law and order reflecting the final decision of the Board, and the  
23 right to judicial review of the Board's order, if the decision is adverse to her.

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

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

8 **B. Terms & Conditions**

9           **NOW, THEREFORE**, in order to resolve the matters addressed herein, i.e., the matters  
10 with regard to the Complaint, Respondent and the IC hereby agree to the following terms and  
11 conditions:

12           **1. Jurisdiction.** Respondent was, and at all times relevant to the Complaint has been,  
13 a physician licensed to practice medicine in Nevada subject to the jurisdiction of the Board as set  
14 forth in the Medical Practice Act. Respondent failed to renew her license to practice medicine in  
15 June 2017, and her license expired on June 30, 2017. Pursuant to NRS 630.298, the Board  
16 maintains jurisdiction over Respondent despite the expiration of her license.

17           **2. Representation by Counsel/Knowing, Willing and Intelligent Agreement.**  
18 Respondent acknowledges she is represented by counsel, and wishes to resolve the matters  
19 addressed herein with said counsel. Respondent agrees that, if representation by counsel in this  
20 matter materially changes prior to entering into this Agreement and for the duration of this  
21 Agreement, counsel for the IC will be timely notified of the material change. Respondent agrees  
22 that she knowingly, willingly and intelligently enters into this Agreement after deciding to have a  
23 full consultation with and upon the advice of legal counsel.

24           **3. Waiver of Rights.** In connection with this Agreement, and the associated terms  
25 and conditions, Respondent knowingly, willingly and intelligently waives all rights in connection  
26 with this administrative matter. Respondent hereby knowingly, willingly and intelligently waives  
27 all rights arising under the United States Constitution, the Nevada Constitution, the Medical  
28 Practice Act, the OML, the APA, and any other legal rights that may be available to her or that

1 may apply to her in connection with the administrative proceedings resulting from the Complaint  
2 filed in this matter, including defense of the Complaint, adjudication of the allegations set forth in  
3 the Complaint, and imposition of any disciplinary actions or sanctions ordered by the Board.  
4 Respondent agrees to settle and resolve the allegations of the Complaint as set out by this  
5 Agreement, without a hearing or any further proceedings and without the right to judicial review.

6       **4. Acknowledgement of Reasonable Basis to Proceed.** Respondent acknowledges  
7 that the IC believes it has a reasonable basis to allege that Respondent engaged in conduct that is  
8 grounds for discipline pursuant to the Medical Practice Act. The Board acknowledges Respondent  
9 is not admitting that the Board's claims/counts as alleged in the Complaint have merit and  
10 Respondent is agreeing to resolve this matter to avoid the costs of hearing and potential  
11 subsequent litigation. Respondent asserts if this matter were to proceed to hearing, she has  
12 evidence, witnesses, expert witness(es) and defenses to the counts/claims alleged in Complaint,  
13 but for the purposes of resolving the matter and for no other purpose, Respondent waives the  
14 presentation of evidence, witnesses, expert witnesses, and defenses in order to effectuate this  
15 Agreement.

16       **5. Consent to Entry of Order.** In order to resolve this Complaint pending against  
17 Respondent without incurring any further costs or the expense associated with a hearing, Respondent  
18 hereby agrees that the Board may issue an order finding that Respondent engaged in conduct that  
19 is grounds for discipline pursuant to the Medical Practice Act. Accordingly, the following terms  
20 and conditions are hereby agreed upon:

21       a. Respondent admits to the following:

22               i. Count VIII: a violation of NRS 630.306(1)(b)(3) (engaging in conduct which is  
23 in violation of a regulation adopted by the State Board of Pharmacy) as set forth in the  
24 Complaint;

25               ii. Count IX: a violation of NRS 630.306(1)(b)(3) (engaging in conduct which is in  
26 violation of a regulation adopted by the State Board of Pharmacy) as set forth in the  
27 Complaint;

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1           iii. Count XI: a violation of NRS 630.3062(1) (failure to maintain timely, legible,  
2 accurate and complete medical records) as set forth in the Complaint;

3           iv. Count XII: a violation of NRS 630.306(1)(a) (inability to practice medicine with  
4 reasonable skill and safety) as set forth in the Complaint

5           v. Count XIII: a violation of NRS 630.306(1)(m) (failure to be found competent to  
6 practice medicine as a result of an examination to determine medical competency pursuant  
7 to NRS 630.318.

8           b. Respondent will pay the costs and expenses incurred in the investigation and  
9 prosecution of the above-referenced matter, the current amount being \$14,290.16, not  
10 including any costs that may be necessary to finalize this Agreement. Payment of  
11 \$1,000.00 will be due within seven (7) calendar days of the Board's approval of this  
12 Agreement. Based on Respondent's current financial circumstances, payment of \$100.00  
13 per month will be due on the first day of the month beginning on January 1, 2018 through  
14 June 1, 2018. The remaining payment will be due in monthly installments of \$1,000.00  
15 commencing on July 1, 2018 and the first day of each month thereafter, until satisfied in  
16 full.

17           c. This Agreement shall be reported to the appropriate entities and parties as required  
18 by law, including, but not limited to, the National Practitioner Data Bank.

19           d. Respondent shall receive a Public Letter of Reprimand.

20           e. The IC will dismiss Counts I, II, IV, V, VI, VII, and X with prejudice.

21           f. The IC will dismiss Count III without prejudice.

22           g. If Respondent chooses to apply for reinstatement of her license to practice  
23 medicine in Nevada, or if Respondent applies for licensure anew after expiration of the  
24 reinstatement period, and if Respondent satisfies all other applicable licensing  
25 requirements, Respondent will be required to undergo an evaluation to determine  
26 Respondent's fitness to practice medicine, at her own expense. The evaluation may be  
27 Respondent's successful passage of the Maintenance of Certification Examination of the  
28 American Board of Internal Medicine. Notwithstanding the foregoing, the Board reserves

1 its right to order its own evaluation of Respondent to determine her fitness to practice  
2 medicine. Respondent will be required to appear at a regularly scheduled meeting of the  
3 Board subsequent to submittal of an application for reinstatement of license, or licensure  
4 anew after expiration of the reinstatement period.

5 **6. Release From Liability.** In execution of this Agreement, Respondent understands  
6 and agrees that the State of Nevada, the Board, and each of its members, staff, counsel,  
7 investigators, experts, peer reviewers, committees, panels, hearing officers, consultants and agents  
8 are immune from civil liability for any decision or action taken in good faith in response to  
9 information acquired by the Board. NRS 630.364(2)(a). Respondent agrees to release the State of  
10 Nevada, the Board, and each of its members, staff, counsel, investigators, experts, peer reviewers,  
11 committees, panels, hearing officers, consultants and agents from any and all manner of actions,  
12 causes of action, suits, debts, judgments, executions, claims and demands whatsoever, known and  
13 unknown, in law or equity, that Respondent ever had, now has, may have or claim to have, against  
14 any or all of the persons, government agencies or entities named in this paragraph arising out of,  
15 or by reason of, this investigation, this Agreement or the administration of the case referenced  
16 herein.

17 **7. Procedure for Adoption of Agreement.** The IC and counsel for the IC shall  
18 recommend approval and adoption of the terms and conditions of this Agreement by the Board in  
19 resolution of this Complaint. In the course of seeking Board acceptance, approval and adoption of  
20 this Agreement, counsel for the IC may communicate directly with the Board staff and the  
21 adjudicating members of the Board.

22 Respondent acknowledges that such contacts and communications may be made or  
23 conducted ex parte, without notice or opportunity to be heard on her part until the public Board  
24 meeting where this Agreement is discussed, and that such contacts and communications may  
25 include, but may not be limited to, matters concerning this Agreement, the Complaint and any and  
26 all information of every nature whatsoever related to this matter. The IC and its counsel agree that  
27 Respondent may appear at the Board meeting where this Agreement is discussed and, if requested,  
28 respond to any questions that may be addressed to the IC or the IC's counsel.

1           **8.     Effect of Acceptance of Agreement by Board.** In the event the Board accepts,  
2 approves and adopts this Agreement, the Board shall issue a final order, making this Agreement  
3 an order of the Board.

4           **9.     Effect of Rejection of Agreement by Board.** In the event the Board does not  
5 accept, approve and adopt this Agreement, this Agreement shall be null, void and of no force and  
6 effect except as to the following agreement regarding adjudications: (1) Respondent agrees that,  
7 notwithstanding rejection of this Agreement by the Board, nothing contained in this Agreement  
8 and nothing that occurs pursuant to efforts of the IC to seek the Board's acceptance of this  
9 Agreement shall disqualify any member of the adjudicating panel of the Board from considering  
10 this Complaint and from participating in disciplinary proceedings against Respondent, including  
11 adjudication of this case; and (2) Respondent further agrees that she shall not seek to disqualify  
12 any such member absent evidence of bad faith.

13           **10.   Binding Effect.** If approved by the Board, Respondent understands that this  
14 Agreement is a binding and enforceable contract upon Respondent and the Board.

15           **11.   Forum Selection Clause.** The parties agree that in the event either party is  
16 required to seek enforcement of this Agreement in district court, the parties consent to such  
17 jurisdiction and agree that exclusive jurisdiction shall be in the Second Judicial District Court,  
18 State of Nevada, Washoe County.

19           **12.   Attorneys' Fees and Costs.** The parties agree that in the event an action is  
20 commenced in district court to enforce any provision of this Agreement, the prevailing party shall  
21 be entitled to recover reasonable attorneys' fees and costs.

22           **13.   Failure to Comply with Terms.** Failure to comply with the terms of this  
23 Agreement, once approved and adopted by the Board, including failure to pay any fines, costs,  
24 expenses or fees owed to the Board, is a failure to comply with an order of the Board, which may  
25 result in additional disciplinary action being taken against Respondent. NRS 630.3065(2)(a).  
26 Further, Respondent's failure to remit payment to the Board for monies agreed to be paid as a

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1 condition of this Agreement may subject Respondent to civil collection efforts.

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Dated this 22 day of NOV, 2017.

By: 

Robert Kilroy, Esq.  
General Counsel and Attorney for the Investigative Committee

Dated this 20<sup>th</sup> day of November 2017.

By: 

Monte Neil Stewart, Esq.  
Attorney for the Respondent

**UNDERSTOOD AND AGREED:**



Poupak P. Ziaei, M.D., Respondent

Dated this 20<sup>th</sup> day of November 2017.



OFFICE OF THE GENERAL COUNSEL

Nevada State Board of Medical Examiners

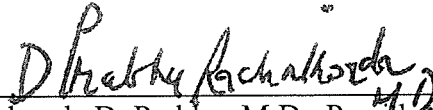
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**IT IS HEREBY ORDERED** that the foregoing Settlement Agreement is approved and accepted by the Nevada State Board of Medical Examiners on the 1<sup>st</sup> day of December 2017, with the final total amount of costs due of \$14,290.16.



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Rachakonda D. Prabhu, M.D., President  
NEVADA STATE BOARD OF MEDICAL EXAMINERS