BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

In the Matter of Charges and
Complaint Against
Poupak P. Ziaei, M.D.,
Respondent.

Case No. 17-32905-1

SETTLEMENT AGREEMENT

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

A. Background

1. Respondent is a physician who was 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 on November 14, 2007 (License No. 12525). Respondent failed to renew her license to practice medicine in June, 2017 and is currently not licensed.

2. On April 11, 2017, the IC filed a formal Complaint (Complaint) charging Respondent with violating the Medical Practice Act. The Complaint alleges: one violation of NRS 630.304(1) (renewing license by fraud or misrepresentation); three violations of NRS 630.306(1)(l) (failure to

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

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

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

5. Respondent is hereby advised of her rights regarding this administrative matter, and of her opportunity to defend against the allegations in the 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, the Nevada Open Meeting Law (OML), which is contained in NRS Chapter 241, 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 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.

6. 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 license probation, license suspension, license revocation and 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.
7. 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 Complaint, Respondent and the IC hereby agree to the following terms and conditions:

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

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

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 OML, 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 Complaint filed in this matter, including defense of the Complaint, adjudication of the allegations set forth in the Complaint, and imposition of any disciplinary actions or sanctions ordered by the Board. Respondent agrees to settle and resolve the allegations of the Complaint as set out by this Agreement, without a hearing or any further proceedings and without the right to judicial review.

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 not admitting that the Board’s claims/counts as alleged in the 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 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 this Complaint pending against Respondent without incurring any further costs or the expense associated with a hearing, Respondent hereby agrees that the Board may issue an order finding that Respondent engaged in conduct that is grounds for discipline pursuant to the Medical Practice Act. Accordingly, the following terms and conditions are hereby agreed upon:

a. Respondent admits to the following:

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

ii. Count IX: a violation of NRS 630.306(1)(b)(3) (engaging in conduct which is in violation of a regulation adopted by the State Board of Pharmacy) as set forth in the Complaint;
iii. Count XI: a violation of NRS 630.3062(1) (failure to maintain timely, legible, accurate and complete medical records) as set forth in the Complaint;

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

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

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

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

d. Respondent shall receive a Public Letter of Reprimand.

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

f. The IC will dismiss Count III without prejudice.

g. If Respondent chooses to apply for reinstatement of her license to practice medicine in Nevada, or if Respondent applies for licensure anew after expiration of the reinstatement period, and if Respondent satisfies all other applicable licensing requirements, Respondent will be required to undergo an evaluation to determine Respondent’s fitness to practice medicine, at her own expense. The evaluation may be Respondent’s successful passage of the Maintenance of Certification Examination of the American Board of Internal Medicine. Notwithstanding the foregoing, the Board reserves
its right to order its own evaluation of Respondent to determine her fitness to practice medicine. Respondent will be required to appear at a regularly scheduled meeting of the Board subsequent to submittal of an application for reinstatement of license, or licensure anew after expiration of the reinstatement period.

6. **Release From Liability.** In execution of this Agreement, Respondent understands and agrees that the State of Nevada, the Board, and each of its members, staff, counsel, investigators, experts, peer reviewers, committees, panels, hearing officers, consultants and agents are immune from civil liability for any decision or action taken in good faith in response to information acquired by the Board. NRS 630.364(2)(a). Respondent agrees to release the State of Nevada, the Board, and each of its members, staff, counsel, investigators, experts, peer reviewers, committees, panels, hearing officers, consultants and agents 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, government agencies or entities named in this paragraph arising out of, or by reason of, this investigation, this Agreement or the administration of the case referenced herein.

7. **Procedure for Adoption of Agreement.** The IC and counsel for the IC shall recommend approval and adoption of the terms and conditions of this Agreement by the Board in resolution of this Complaint. In the course of seeking Board acceptance, approval and adoption 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 communications may be made or conducted ex parte, without notice or opportunity to be heard on her part until the public Board meeting where this Agreement is discussed, and that such contacts and communications may include, but may not be limited to, matters concerning this Agreement, the Complaint and any and all information of every nature whatsoever related to this matter. The IC and its counsel agree that Respondent 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 the IC’s counsel.
8. **Effect of Acceptance of Agreement by Board.** In the event the Board accepts, approves and adopts this Agreement, the Board shall issue a final order, making this Agreement an order of the Board.

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

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

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

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

13. **Failure to Comply with Terms.** Failure to comply with the terms of this Agreement, once approved and adopted by the Board, including failure to pay any fines, costs, expenses or fees owed to the Board, is a failure to comply with an order of the Board, which may result in additional disciplinary action being taken against Respondent. NRS 630.3065(2)(a).

Further, Respondent’s failure to remit payment to the Board for monies agreed to be paid as a

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

Dated this 22 day of NOV, 2017.

By: ____________________________

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

Dated this 20th day of November, 2017.

By: ____________________________

Monte Neil Stewart, Esq.
Attorney for the Respondent

UNDERSTOOD AND AGREED:

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Poupak P. Ziaei, M.D., Respondent

Dated this 20th day of November, 2017.
IT IS HEREBY ORDERED that the foregoing Settlement Agreement is approved and accepted by the Nevada State Board of Medical Examiners on the 1st day of December 2017, with the final total amount of costs due of $14,290.16.

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