

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

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4
5 **In the Matter of Charges and**
6 **Complaint Against**
7 **Robert G. Rand, M.D.,**
8 **Respondent.**

Case No. 17-25704-1

FILED

APR 16 2018

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

By: 

9
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 Robert G. Rand, M.D. (Respondent), a formerly licensed medical doctor in Nevada, represented
14 by John Ohlson, Esq., hereby enter into this Settlement Agreement (Agreement) based on the
15 following:¹

16 **A. Background**

17 1. Respondent is a physician who was formerly licensed by the Board, pursuant to
18 Chapter 630 of the Nevada Revised Statutes (NRS) and Chapter 630 of the Nevada Administrative
19 Code (NAC) (collectively, the Medical Practice Act), to practice medicine in Nevada on July 1, 2005,
20 (License No. 11470). Respondent failed to renew his license to practice medicine in June of 2017 and
21 is currently not licensed as the aforementioned license expired June 30, 2017. Pursuant to NRS
22 630.298, the expiration of a license by operation of law does not deprive the Board of jurisdiction
23 to proceed with any disciplinary proceeding against the licensee. At all relevant times alleged
24 herein, Respondent was licensed in an active status by the Board pursuant to the provisions of the
25 Medical Practice Act.

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27 ¹ All agreements and admissions made by Respondent are solely for final disposition of this matter and any
28 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.

OFFICE OF THE GENERAL COUNSEL

Nevada State Board of Medical Examiners

1105 Terminal Way #301

Reno, Nevada 89502

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1 2. On January 10, 2018, the IC filed a First Amended Complaint (Complaint) charging
2 Respondent with violating the Medical Practice Act. The Complaint alleges two (2) violations of NRS
3 630.301(1) (conviction of felony relating to the practice of medicine), and one (1) violation of NRS
4 630.301(11)(f) (conviction of a violation of federal law regulating the distribution of a controlled
5 substance).

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

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

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

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

26 7. Respondent understands and agrees that this Agreement, by and between
27 Respondent and the IC, is not with the Board, and that the IC will present this Agreement to the
28 Board for consideration in open session at a duly noticed and scheduled meeting. Respondent

1 understands that the IC shall advocate for the Board's approval of this Agreement, but that the
2 Board has the right to decide in its own discretion whether or not to approve this Agreement.

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

5 **B. Terms & Conditions**

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

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

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

21 **3. Waiver of Rights.** In connection with this Agreement, and the associated terms
22 and conditions, Respondent knowingly, willingly and intelligently waives all rights in connection
23 with this administrative matter. Respondent hereby knowingly, willingly and intelligently waives
24 all rights arising under the United States Constitution, the Nevada Constitution, the Medical
25 Practice Act, the NOML, the NAPA, and any other legal rights that may be available to him or
26 that may apply to him in connection with the administrative proceedings resulting from the
27 Complaint filed in this matter, including defense of the Complaint, adjudication of the allegations
28 set forth in the Complaint, and imposition of any disciplinary actions or sanctions ordered by the

1 Board. Respondent agrees to settle and resolve the allegations of the Complaint as set out by this
2 Agreement, without a hearing or any further proceedings and without the right to judicial review.

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

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

- 18 a. Respondent admits to the following:
- 19 i. Count I: a violation of NRS 630.301(1) (conviction of felony relating to the practice
20 of medicine), as set forth in the Complaint;
- 21 ii. Count II: a violation of NRS 630.301(1) (conviction of felony relating to the
22 practice of medicine), as set forth in the Complaint;
- 23 iii. Count III: a violation of NRS 630.301(1)(f) (conviction of a violation of federal
24 law regulating the distribution of a controlled substance), as set forth in the Complaint.
- 25 b. Respondent will pay the costs and expenses incurred in the investigation and
26 prosecution of the above-referenced matter, the current amount being \$32,041.54, not
27 including any costs that may be necessary to finalize this Agreement. Payment of the
28 aforementioned costs must be made in full prior to any subsequent license to practice

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1 medicine in Nevada being granted to Respondent. Respondent may petition the Board, if
2 desired, and seek a modification of the requirement for full payment and seek a payment
3 plan that is agreeable and acceptable to both the Respondent and the Board. The Board
4 reserves the right to demand payment in full or modify as it deems necessary.

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

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

8 e. If Respondent chooses to apply for a new license to practice medicine in Nevada,
9 and if Respondent satisfies all other applicable licensing requirements, Respondent will be
10 required to undergo an evaluation to determine Respondent's fitness to practice medicine,
11 at his own expense. Additionally, the Board reserves its right to order its own evaluation
12 of Respondent to determine his fitness to practice medicine. Respondent will be required
13 to appear at a regularly scheduled meeting of the Board subsequent to submission of an
14 application for licensure anew after expiration of the reinstatement period.

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

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1 7. **Procedure for Adoption of Agreement.** The IC and counsel for the IC shall
2 recommend approval and adoption of the terms and conditions of this Agreement by the Board in
3 resolution of the Complaint. In the course of seeking Board acceptance, approval and adoption of
4 this Agreement, counsel for the IC may communicate directly with the Board staff and the
5 adjudicating members of the Board.

6 Respondent acknowledges that such contacts and communications may be made or
7 conducted ex parte, without notice or opportunity to be heard on his part until the public Board
8 meeting when this Agreement is discussed, and that such contacts and communications may
9 include, but may not be limited to, matters concerning this Agreement, the Complaint and any and
10 all information of every nature whatsoever related to this matter. The IC and its counsel agree that
11 Respondent may appear at the Board meeting when this Agreement is discussed and, if requested,
12 respond to any questions that may be addressed to the IC or the IC's counsel.

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

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

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

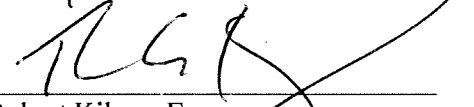
27 11. **Forum Selection Clause.** The parties agree that in the event either party is
28 required to seek enforcement of this Agreement in district court, the parties consent to such

1 jurisdiction and agree that exclusive jurisdiction shall be in the Second Judicial District Court,
2 State of Nevada, Washoe County.

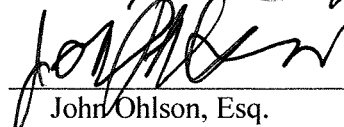
3 **12. Attorneys' Fees and Costs.** The parties agree that in the event an action is
4 commenced in district court to enforce any provision of this Agreement, the prevailing party shall
5 be entitled to recover reasonable attorneys' fees and costs.


6 **13. Failure to Comply with Terms.** Failure to comply with the terms of this
7 Agreement, once approved and adopted by the Board, including failure to pay any fines, costs,
8 expenses or fees owed to the Board, is a failure to comply with an order of the Board, which may
9 result in additional disciplinary action being taken against Respondent. NRS 630.3065(2)(a).
10 Further, Respondent's failure to remit payment to the Board for monies agreed to be paid as a
11 condition of this Agreement may subject Respondent to civil collection efforts.

12 Dated this 27 day of FEB, 2018.

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14 By: 
15 Robert Kilroy, Esq.
16 General Counsel and Attorney for the Investigative Committee

17 Dated this 27 day of Feb, 2018.

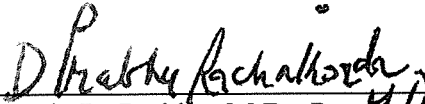
18 By: 
19 John Ohlson, Esq.
20 Attorney for the Respondent

21 **UNDERSTOOD AND AGREED:**

22 Robert G. Rand, M.D., Respondent

23 Dated this 21 day of February, 2018.
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OFFICE OF THE GENERAL COUNSEL
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1 **IT IS HEREBY ORDERED** that the foregoing Settlement Agreement is approved and accepted
2 by the Nevada State Board of Medical Examiners on the 13th day of April, 2018, with the final
3 total amount of costs due of \$32,041.54.

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6 Rachakonda D. Prabhu, M.D., President
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