

ORIGINAL

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

Received

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NV-1058 AWJ

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Case No. 07-18619-1

FILED

AUG 11 2009

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

In The Matter of Charges and
Complaint Against
DOUGLAS ROSS, M.D.,
Respondent.

SETTLEMENT AGREEMENT

THIS AGREEMENT is entered into by and between the Investigative Committee (IC) of the Nevada State Board of Medical Examiners (the Board), composed of Sohail U. Anjum, M.D., and S. Daniel McBride, M.D., at the time the Complaint was authorized, by and through General Counsel, Edward O. Cousineau, and Respondent herein, Douglas Ross, M.D. (Respondent), by and through his counsel, Arthur W. Tuverson, Esq., as follows:

WHEREAS, on October 24, 2007, the Board's IC filed a formal complaint in the above referenced matter charging Respondent of engaging in conduct that is grounds for discipline pursuant to the Medical Practice Act (NRS Chapter 630) to wit: one count of malpractice; and

WHEREAS, Respondent has received and reviewed a copy of the complaint, understands it, and has consulted with competent counsel, Arthur W. Tuverson, Esq., concerning the nature and significance of the complaint, and Respondent is fully advised concerning his rights and defenses to the complaint as well as the possible sanctions that may be imposed if the Board finds and concludes that he has engaged in conduct that is grounds for discipline pursuant to the Medical Practice Act; and

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 Medical Practice Act (NRS Chapter 630) and the Nevada Administrative Procedures Act (NRS Chapter

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1 233B), including but not limited to the right to a formal hearing on the charges against him, the right
2 to representation by counsel in the preparation and presentation of his defense, the right to
3 confrontation and cross-examination of witnesses against him, the right to written findings,
4 conclusions and order regarding a final decision by the Board, and the right to judicial review of any
5 final decision by the Board that is adverse to him; and

6 **WHEREAS**, Respondent, based on his understanding of the relevant facts and
7 circumstances, and subject to the conditions set forth in this Agreement, desires to waive all of his
8 rights under the United States Constitution, the Constitution of the State of Nevada, the Medical
9 Practice Act and the Nevada Administrative Procedures Act, including but not limited to the right to
10 a hearing on the charges and written findings of fact, conclusions of law and order, and he desires to
11 settle and resolve the matter of the formal complaint against him by way of and in accordance with
12 this Settlement, Waiver and Consent Agreement; and

13 **WHEREAS**, Respondent understands and agrees that this Agreement is entered into by and
14 between himself and the Board's IC, and not with the Board, but that the IC will present this
15 Agreement to the Board for consideration in open session at a regular meeting duly noticed and
16 scheduled, and that the IC will advocate approval of this Agreement by the Board, but that the Board
17 has the right to decide in its own discretion whether or not to approve this Agreement; and

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

21 **WHEREAS**, Respondent understands and agrees that, if the Board does not approve the
22 terms, covenants and conditions of this Agreement, then the terms, covenants and conditions
23 enumerated below shall not be binding and enforceable upon him except the provisions as to
24 disqualification of adjudicating panel members in paragraph number 9, and he will be provided with
25 an opportunity to defend himself against the charges against him at a regularly scheduled hearing in
26 accordance with all applicable laws.

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1 **NOW THEREFORE**, in order to resolve the pending complaint and charges brought
2 against him by the Board's Investigative Committee in the above-captioned matter, Respondent and
3 the IC hereby agree to the following terms, covenants and conditions:

4 1. **Jurisdiction.** Respondent is, and at all times mentioned in the complaint filed in the
5 above-captioned matter was, a physician licensed to practice medicine in the State of Nevada,
6 subject to jurisdiction of the Board to hear and adjudicate charges of violations of the Medical
7 Practice Act (NRS 630), and to impose sanctions as provided by the Act.

8 2. **Representation by Counsel.** Respondent is represented by counsel herein, whom
9 Respondent covenants and agrees is fully capable, competent and fully advised in these
10 circumstances, and Respondent further covenants and agrees that he enters into this Agreement
11 knowingly, willingly, and intelligently after full consultation with and upon the advice of counsel.

12 3. **Waiver of Rights.** In connection with this Agreement, and the terms, covenants and
13 conditions contained herein, Respondent knowingly, willingly and intelligently, with the advice of
14 above-identified counsel, waives all rights arising under or pursuant to the United States
15 Constitution, the Constitution of the State of Nevada, NRS Chapter 630 and NRS Chapter 233B that
16 may be available to him or that may apply to him in connection with the proceeding on the
17 complaint filed herein, the defense of said complaint, the adjudication of the charges in said
18 complaint and the imposition of sanctions, and Respondent further agrees that the matter of the
19 disciplinary action commenced by complaint herein may be settled and resolved in accordance with
20 this Agreement without a hearing or any further proceeding and without the right to judicial review.

21 4. **Acknowledgement of Reasonable Basis to Proceed.** Respondent covenants and
22 agrees that the Board's IC had a reasonable basis to believe that Respondent engaged in one or more
23 instances of conduct that is grounds for discipline pursuant to the provisions of the Medical Practice
24 Act.

25 5. **Consent to Entry of Order.** In order to resolve the matter of these disciplinary
26 proceedings pending against him without any further costs and expense of providing a defense to the
27 complaint, or to an amended complaint, Respondent hereby agrees, and does not contest, that an
28 order may be entered herein by the Board against him finding that Respondent engaged in conduct

1 that is grounds for discipline pursuant to the Medical Practice Act, to wit: one count of failure to
2 maintain accurate or complete medical records relating to the patient at issue, a violation of NRS
3 630.3062(1), that Respondent shall be publicly reprimanded, and that within one year of the
4 adoption of this Agreement by the Board, Respondent shall complete twelve (12) hours of
5 continuing medical education (CME) specifically on the issue of medical record keeping and/or
6 documentation, these CME are to be in addition to any other continuing medical education required
7 as a condition of medical licensure. Further, the CME must be approved by the Chairman of the IC
8 in advance of its performance. The Respondent also agrees to reimburse the Board the reasonable
9 costs and expenses incurred in the investigation and prosecution of this case, the current amount
10 being \$4,784.97. This amount does not include the further costs that may be incurred by the Board
11 to conclude the matter. Respondent agrees to pay these additional costs, in addition to the
12 aforementioned amount to the Board within sixty (60) days of the acceptance, adoption and
13 approval of this Agreement by the Board.

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

22 7. **Procedure for Adoption of Agreement.** The IC and counsel for the IC shall
23 recommend approval and adoption of the terms, covenants and conditions contained herein by
24 the Board in resolution of the disciplinary proceedings pending herein against Respondent
25 pursuant to the formal complaint. In the course of seeking Board approval, adoption and/or
26 acceptance of this Agreement, counsel for the IC may communicate directly with the Board staff
27 and members of the panel of the Board that would adjudicate this case if it were to go to hearing.
28 Respondent covenants and agrees that such contacts and communication may be made or

1 conducted ex parte, without notice or opportunity to be heard on his part or on the part of his
2 counsel, and that such contacts and communications may include, but not be limited to, matters
3 concerning this Agreement, the complaint, the allegations in the complaint any and all evidence
4 that may exist in support of the complaint, and any and all information of every nature
5 whatsoever related to the complaint or the proceedings herein against Respondent.

6 8. **Effect of Acceptance of Agreement by Board.** In the event the Board approves,
7 accepts and adopts the terms, covenants and conditions set out in this Agreement, the Board will
8 enter herein an order finding Respondent violated NRS 630.3062(1), ordering Respondent obtain
9 additional continuing medical education as provided herein, ordering Respondent to pay the costs
10 and expenses of the investigation and prosecution of this matter as provided herein, and lastly,
11 dismissing the complaint.

12 9. **Effect of Rejection of Agreement by Board.** In the event the Board does not
13 approve, accept and adopt the terms, covenants and conditions set out in this Agreement, this
14 Agreement shall be null, void and of no further force and effect except as to the following
15 covenant and agreement regarding disqualification of adjudicating Board panel members.
16 Respondent agrees that, notwithstanding rejection of this Agreement by the Board, nothing
17 contained herein and nothing that occurs pursuant to efforts of the IC or its counsel to seek
18 acceptance and adoption of this Agreement by the Board shall disqualify any member of the
19 adjudicating panel of the Board from considering the charges against Respondent and
20 participating in the disciplinary proceedings in any role, and Respondent further agrees that he
21 shall not seek to disqualify any such member.

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


25 11. **Forum Selection Clause.** Respondent covenants and agrees that in the event
26 either party is required to seek enforcement of this Agreement in the district court, he consents to
27 such jurisdiction, and covenants and agrees that exclusive jurisdiction shall be in the Second
28 Judicial District Court of the State of Nevada in and for the County of Washoe.


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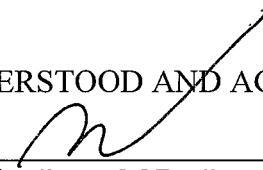
12. Attorneys Fees and Costs. Respondent covenants and agrees that in the event an action is commenced in the district court to enforce any provision of this Agreement the prevailing party shall be entitled to recover reasonable costs and attorneys' fees.

Dated this 16th day of June, 2009.

Dated this 21st day of June, 2009.

By: 
Edward O. Cousineau
Attorney for the Investigative Committee
of the Nevada State Board of Medical Examiners

By: 
Arthur W. Tuverson, Esq.
Attorney for Respondent

UNDERSTOOD AND AGREED:

Douglas Ross, M.D., Respondent

Dated this 13 day of February, 2009.

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
1105 Terminal Way #301
Reno, Nevada 89502
(775) 688-2559

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IT IS HEREBY ORDERED that the foregoing Settlement, Waiver and Consent Agreement is approved and accepted by the Nevada State Board of Medical Examiners on the 7th day of August 2009, with the final total amount of costs due of \$4,909.22.



CHARLES N. HELD, President
NEVADA STATE BOARD OF MEDICAL EXAMINERS