

1 **WHEREAS**, Respondent received a copy of the formal Complaint, reviewed it,
2 understands it, and has had the opportunity to consult with competent counsel concerning the
3 nature and significance of the formal Complaint. Respondent is fully advised concerning his
4 rights and defenses to the formal Complaint, as well as the possible sanctions that may be imposed
5 if the Board finds and concludes that he violated one or more provisions of the MPA; and

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

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

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

23 **NOW THEREFORE**, in order to resolve this matter and all charges alleged by the
24 Board's IC in the above-captioned matter, Respondent and the IC hereby agree¹ to the following
25 terms, covenants and conditions:
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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, 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, any
state or federal court proceeding, or any credentialing or privileges matter.

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

5 **2. Representation by Counsel/Knowing, Willing and Intelligent Agreement.**
6 Respondent acknowledges that he is not represented by counsel and wishes to proceed
7 towards a resolution of this matter, as set forth in this Agreement, without counsel. Respondent
8 understands and acknowledges that he may retain and consult counsel prior to entering into this
9 Agreement. Respondent agrees that if counsel is retained for representation in this matter prior to
10 entering into this Agreement, that counsel for the IC will be informed of such representation prior
11 to Respondent executing this Agreement. Respondent covenants and agrees that he enters into
12 this Agreement knowingly, willingly and intelligently.

13 **3. Waiver of Rights.** In connection with this Agreement, and the terms, covenants
14 and conditions contained herein, Respondent knowingly, willingly and intelligently waives all
15 rights in connection with this Agreement, and the terms, covenants and conditions contained
16 herein, and with the understanding that Respondent knowingly, willingly and intelligently waives
17 all rights arising under or pursuant to the United States Constitution, the constitution of the
18 state of Nevada, the MPA, NRS Chapter 233B, and any other statutory rights that may be
19 available to him or that may apply to him in connection with the proceedings on the formal
20 Complaint filed herein, the defense of said formal Complaint, the adjudication of the charges in
21 said formal Complaint, and the imposition of sanctions.

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

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

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1 **5. Consent to Entry of Order.** In order to resolve the matter of these disciplinary
2 proceedings pending against him without incurring any further costs and expense of providing a
3 defense to the formal Complaint, Respondent hereby agrees that the Board may issue an Order
4 finding that Respondent engaged in conduct that is grounds for discipline pursuant to the MPA, to
5 wit: one count of failure by a licensee to report in writing, within thirty (30) days, any
6 disciplinary action taken against the licensee by another state, as set forth in Count II of the formal
7 Complaint and agrees that:

8 a. Respondent shall pay a fine of Two Hundred and 00/100 Dollars (\$200.00)
9 to the Board within thirty (30) days of the Board's acceptance, adoption and approval of this
10 Agreement;

11 b. Pursuant to NRS 622.400, Respondent shall reimburse the sum of Eight
12 Hundred and 00/100 Dollars (\$800.00), the current amount of the costs incurred by the Board to
13 investigate and prosecute this matter, along with the costs to conclude the matter, if any. The
14 costs shall be paid to the Board within thirty (30) days of the Board's acceptance, adoption and
15 approval of this Agreement;

16 c. Count I of the formal Complaint shall be dismissed;

17 d. One count of Count II of the formal Complaint shall be dismissed; and

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

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

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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, covenants and conditions contained herein by the
3 Board in resolution of the formal Complaint pending herein against Respondent. In the course of
4 seeking Board approval, adoption and/or acceptance of this Agreement, counsel for the IC may
5 communicate directly with the Board staff and the adjudicating members of the Board.

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

15 8. Effect of Acceptance of Agreement by Board. In the event the Board approves,
16 accepts and adopts the terms, covenants and conditions set out in this Agreement, counsel for the
17 IC will cause the Board's order accepting, adopting and approving this Agreement to be entered
18 herein, ordering full compliance with the terms herein and ordering that this case be closed,
19 subject to the provisions in Paragraph 5.

20 9. Effect of Rejection of Agreement by Board. In the event the Board does not
21 accept, approve and adopt the terms, covenants and conditions set out in this Agreement, this
22 Agreement shall be null, void, and of no further force and effect except as to the following
23 covenant and agreement regarding disqualification of adjudicating Board panel members.
24 Respondent agrees that, notwithstanding rejection of this Agreement by the Board, nothing
25 contained herein and nothing that occurs pursuant to efforts of the IC or its counsel to seek
26 acceptance and adoption of this Agreement by the Board shall disqualify any member of the
27 adjudicating panel of the Board from considering the charges against Respondent and
28 participating in the disciplinary proceedings in any role, including adjudication of the case.

1 Respondent further agrees that he shall not seek to disqualify any such member absent evidence of
2 bad faith.

3 **10. Binding Effect.** If this Agreement is approved by the Board, Respondent
4 covenants and agrees that this Agreement is a binding and enforceable contract upon Respondent
5 and the Board's IC, which contract may be enforced in a court or tribunal having jurisdiction.

6 **11. Forum Selection Clause.** Respondent covenants and agrees that in the event
7 either party is required to seek enforcement of this Agreement in the district court, he consents to
8 such jurisdiction, and covenants and agrees that exclusive jurisdiction shall be in the
9 Second Judicial District Court of the state of Nevada in and for the county of Washoe.

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

13 **13. Failure to Comply With Terms.** In the event the Board enters its order approving
14 this Agreement, should Respondent fail to comply with any term or condition recited herein, the
15 Board shall be authorized to immediately suspend Respondent's license to practice medicine in
16 the state of Nevada pending an order to show cause hearing, which will be duly noticed.
17 Further, failure to comply with the terms recited herein may result in additional disciplinary action
18 being initiated against Respondent for a violation of an order of the Board in accordance with

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1 NRS 630.3065(2)(a). Moreover, the failure of Respondent to reimburse the Board for monies
2 agreed to be paid as a condition of settlement may subject Respondent to civil collection efforts.

3 Dated this 30th day of October, 2013.

Dated this 30 day of Oct, 2013.

4 UNDERSTOOD AND AGREED:

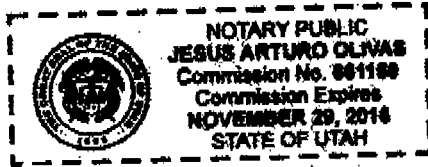
5 By: [Signature]
6 Erin L. Albright, Esq.
7 Attorney for the Investigative Committee

By: [Signature]
Richard G. Maxwell, M.D.
Respondent

8 STATE OF UTAH)
9)ss.
10 COUNTY OF Utah)

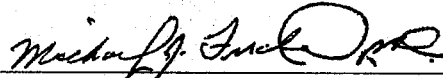
11 SUBSCRIBED and SWORN to before me

12 This 30 day of Oct, 2013.



[Signature]
Notary Public

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 6th day of December 2013, with the final total amount
3 of costs due of \$800.00.

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Michael J. Fischer, M.D., President

6 NEVADA STATE BOARD OF MEDICAL EXAMINERS
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