

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 **JON LANE SIEMS, M.D.,**
8 **Respondent.**

Case No. 19-13009-2

FILED

DEC 03 2021

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

By: *[Signature]*

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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 Donald K. White, Esq., Deputy General Counsel for the Board and
13 attorney for the IC, and Jon Lane Siems, M.D. (Respondent), a licensed physician in Nevada,
14 assisted by his attorney, David J. Mortensen, Esq., of the law firm of Messner Reeves LLP, hereby
15 enter into this Settlement Agreement (Agreement) based on the following:¹

16 **A. Background**

17 1. Respondent is a medical doctor licensed by the Board, pursuant to Chapter 630 of the
18 Nevada Revised Statutes (NRS) and Chapter 630 of the Nevada Administrative Code (NAC)
19 (collectively, the Medical Practice Act), to practice medicine in Nevada since December 20, 1999
20 (License No. 9250).

21 2. On November 13, 2019, in Case No. 19-13009-2, the IC filed a formal Complaint
22 (Complaint) charging Respondent with violating the Medical Practice Act. On November 25, 2020, in
23 Case No. 19-13009-2, the IC filed a First Amended Complaint (First Amended Complaint).
24 Specifically, the Complaint alleges a violation of NRS 630.301(4), Count I, Malpractice, and a
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26 ¹ All agreements and admissions made by Respondent are solely for final disposition of this matter
27 and any subsequent related administrative proceedings or civil litigation involving the Board and
28 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.

1 violation of NRS 630.3062(1)(a), Count II, Failure to Maintain Proper Medical Records. The First
2 Amended Complaint consisted of adding a violation of NRS 630.3065(2)(a), Count III, Knowing or
3 Willful Failure to Comply with a Board Order, for not providing medical records upon request.

4 3. By reason of the foregoing, Respondent is subject to discipline by the Board as
5 provided in NRS 630.352.

6 4. Respondent was properly served with a copy of the Complaint and the First
7 Amended Complaint, has reviewed and understands the Complaint and the First Amended
8 Complaint, and has had the opportunity to consult with competent counsel concerning the nature
9 and significance of the Complaint.

10 5. Respondent is hereby advised of his rights regarding this administrative matter, and of
11 his opportunity to defend against the allegations in the Complaint. Specifically, Respondent has
12 certain rights in this administrative matter as set out by the United States Constitution, the Nevada
13 Constitution, the Medical Practice Act, the Nevada Open Meeting Law (OML), which is contained in
14 NRS Chapter 241, and the Nevada Administrative Procedure Act (APA) applicable to certain
15 regulatory bodies, which is contained in NRS Chapters 233B and 622A. These rights include the right
16 to a formal hearing on the allegations in the Complaint, the right to representation by counsel, at his
17 own expense, in the preparation and presentation of his defense, the right to confront and cross-
18 examine the witnesses and evidence against him, the right to written findings of fact, conclusions of
19 law and order reflecting the final decision of the Board, and the right to judicial review of the Board's
20 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
7 matters with regard to the Complaint, Respondent and the IC hereby agree to the following terms
8 and conditions:

9 1. **Jurisdiction.** Respondent was, and at all times relevant to the Complaint, a
10 physician licensed to practice medicine in Nevada subject to the jurisdiction of the Board as set
11 forth in the Medical Practice Act.

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

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

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1 Respondent agrees to settle and resolve the allegations of the Complaint as set out by this
2 Agreement, without a hearing² 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 IC acknowledges Respondent is
6 not admitting that the IC's claims/counts as alleged in the Complaint have merit. Respondent is
7 agreeing to resolve this matter to avoid the costs of a hearing and potential subsequent litigation.
8 Respondent asserts if this matter were to proceed to hearing, he has evidence, witnesses, expert
9 witness(es) and defenses to the counts/claims alleged in the Complaint, but for the purposes of
10 resolving the matter and for no other purpose, Respondent waives the presentation of evidence,
11 witnesses, expert witnesses, and defenses in order to effectuate this Agreement.

12 5. **Consent to Entry of Order.** In order to resolve this Complaint pending against
13 Respondent, Respondent hereby agrees that the Board may issue an order finding that Respondent
14 engaged in conduct that is grounds for discipline pursuant to the Medical Practice Act. Accordingly,
15 the following terms and conditions are hereby agreed upon:

16 a. Respondent admits to Count I Malpractice, a violation of NRS 630.301(4), and
17 Count II, Failure to Maintain Proper Medical Records, a violation of NRS 630.3062(1)(a), of the
18 First Amended Complaint.

19 b. Respondent's license to practice medicine in the State of Nevada shall be
20 suspended with the suspension to be immediately stayed. Respondent's license shall be subject to
21 suspension upon a term of probation for a period of sixty (60) months from the date of the Board's
22 acceptance, adoption, and approval of this Agreement (Probationary Period). Respondent must
23 complete the following terms and conditions within the Probationary Period and demonstrate
24 compliance to the good faith satisfaction of the Board before or within sixty (60) months,
25 including but not limited to, payment in full of costs and fees imposed, and at that time he may
26 petition the Board to lift the probationary status of his license. If Respondent fails to demonstrate
27 compliance with the terms and conditions of this Agreement, or otherwise violates the terms of

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² A hearing was held on September 30, 2020, December 10, 2020, and December 11, 2020, in which Respondent participated without counsel.

1 this Agreement or the Medical Practice Act, the IC shall be authorized to immediately suspend
2 Respondent's license to practice medicine in Nevada pending an Order to Show Cause Hearing on
3 immediate suspension of his license, which hearing will be duly noticed.

4 c. Respondent will pay the costs and expenses incurred in the investigation and
5 prosecution of this matter in four (4) equal payments of Six Thousand Two Hundred Fifty-Two
6 Dollars and Seventy-Six Cents (\$6,252.76), commencing on January 5, 2022, continuing on
7 February 5, 2022, and March 5, 2022, and paid in full on or before April 5, 2022, upon the
8 Board's acceptance, adoption, and approval of this Agreement.

9 d. For Count I, Respondent shall pay a fine of five thousand dollars (\$5,000.00) in
10 four (4) equal payments of One Thousand Two Hundred Fifty Dollars (\$1,250.00), commencing
11 on January 5, 2022, continuing on February 5, 2022 and March 5, 2022, and paid in full on or
12 before April 5, 2022, upon the Board's acceptance, adoption, and approval of this Agreement.

13 e. Respondent shall complete the University of San Diego, Physician Assessment and
14 Competency Evaluation Program (PACE), Competency Assessment, and, if recommended by
15 PACE, the Fitness for Duty (FFD) evaluation, pass all of the above to the satisfaction of the
16 Board, and follow all recommendations presented in the report(s) within one year of the Board's
17 approval, at his cost.

18 f. Respondent shall complete twenty (20) hours of continuing medical education
19 (CME), fourteen (14) of the CME hours related to the subject matter of best practices in
20 Ophthalmologic surgery, and six (6) hours related to the subject matter of maintaining proper
21 medical records, within one (1) year from the date of the Board's acceptance, adoption, and
22 approval of this Agreement. The aforementioned twenty (20) hours of CME shall be in addition to
23 any CME requirements that are regularly imposed upon Respondent as a condition of licensure in
24 the State of Nevada and shall be approved by the Board prior to their completion.

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

27 h. Respondent shall receive a Public Letter of Reprimand.
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1 i. Count III shall be dismissed with prejudice, and this Agreement shall encompass
2 the resolution of the formal disciplinary case currently before the Board.

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

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

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

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

1 an order of the Board, and, pending full compliance with the terms herein, the case shall be closed.

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

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

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

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

20 13. **Failure to Comply With Terms.** Should Respondent fail to comply with any term
21 or condition of this Agreement once the Agreement has been accepted, approved and adopted by
22 the Board, the IC shall be authorized to immediately suspend Respondent's license to practice
23 medicine in Nevada pending an Order to Show Cause Hearing, which will be duly noticed.
24 Failure to comply with the terms of this Agreement, including failure to pay any fines, costs,
25 expenses or fees owed to the Board, is a failure to comply with an order of the Board, which may
26 result in additional disciplinary action being taken against Respondent. NRS 630.3065(2)(a).

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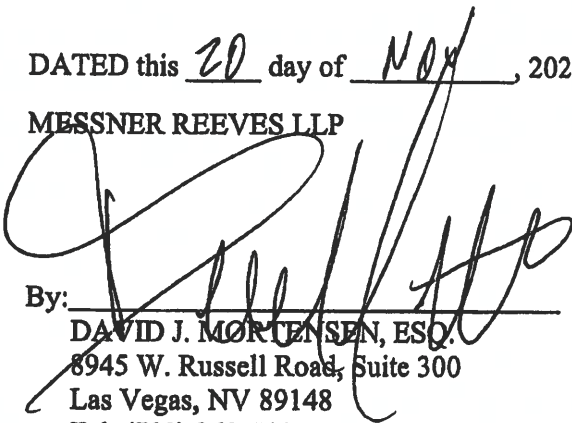
Further, Respondent's failure to remit payment to the Board for monies agreed to be paid as a condition of this Agreement may subject Respondent to any civil and administrative collection efforts available.

DATED this 29th day of November, 2021. DATED this 20 day of NOV, 2021.

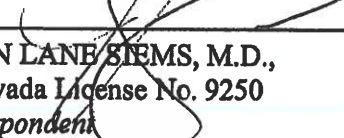
INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL
EXAMINERS

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DATED this 29th day of November, 2021.

By: 
JON LANE SIEMS, M.D.,
Nevada License No. 9250
Respondent

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ORDER

IT IS HEREBY ORDERED that, the foregoing Settlement Agreement (Case No. 19-13009-2) was approved and accepted by the Nevada State Board of Medical Examiners on the 3rd day of December, 2021.

DATED this 3rd day of December, 2021.

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: 

VICTOR M. MURO, M.D.
Board President