

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, Nevada 89521
(775) 688-2559

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

3 * * * * *

4
5 **In the Matter of Charges and Complaint**
6 **Against:**
7 **ROBERT ANDREW KILPATRICK, M.D.**
8 **Respondent.**

Case No. 22-20626-1

FILED

SEP 16 2022

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

9
10 SETTLEMENT AGREEMENT By: *[Signature]*

11 The Investigative Committee (IC) of the Nevada State Board of Medical Examiners
12 (Board), by and through Aaron Bart Fricke, J.D., General Counsel for the Board and attorney for
13 the IC, and Robert Andrew Kilpatrick, M.D. (Respondent), a physician with a license to practice
14 medicine in Nevada, assisted by his attorney Jessica R. Gandy, Esq., of the law firm Messner
15 Reeves, LLP, hereby enter into this Settlement Agreement (Agreement) based on the following:¹

16 **A. BACKGROUND**

17 1. Respondent is a medical doctor with an active license to practice medicine issued
18 by the Board pursuant to Chapter 630 of the Nevada Revised Statutes (NRS) and Chapter 630 of
19 the Nevada Administrative Code (NAC) (collectively, the Medical Practice Act). His license was
20 originally issued on July 20, 2005 (License No. 11530).

21 2. On August 5, 2022, in Case No. 22-20626-1, the IC filed a formal Complaint
22 (Complaint) charging Respondent with violating the Medical Practice Act. Specifically, the

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27 ¹ All agreements and admissions made by Respondent are solely for final disposition of these matters and
28 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.

1 Complaint alleges one (1) count of violation of NAC 630.210, Failure to Seek Consultation in a
2 Doubtful or Difficult Case (Count I).

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

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

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

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

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

1 Board has the right to decide in its own discretion whether or not to approve this Agreement.
2 Respondent further understands and agrees that if the Board approves this Agreement, then the
3 terms and conditions enumerated below shall be binding and enforceable upon him and the Board.

4 **B. TERMS & CONDITIONS**

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

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

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

18 3. **Waiver of Rights.** In connection with this Agreement, and the associated terms and
19 conditions, Respondent knowingly, willingly and intelligently waives all rights in connection with
20 these administrative matters. Respondent hereby knowingly, willingly and intelligently waives all
21 rights arising under the United States Constitution, the Nevada Constitution, the Medical Practice
22 Act, the OML, the APA, and any other legal rights that may be available to him or that may apply
23 to him in connection with the administrative proceedings resulting from the Complaint filed in this
24 matter, including defense of the Complaint, adjudication of the allegations set forth in the
25 Complaint, and imposition of any disciplinary actions or sanctions ordered by the Board.
26 Respondent agrees to settle and resolve the allegations of the Complaint as set out by this
27 Agreement, without a hearing or any further proceedings and without the right to judicial review.

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1 4. Acknowledgement of Reasonable Basis to Proceed. Respondent acknowledges
2 that the IC believes it has a reasonable basis to allege that Respondent engaged in conduct that is
3 grounds for discipline pursuant to the Medical Practice Act. The IC acknowledges that
4 Respondent is agreeing to resolve this matter to avoid the costs of hearing and potential
5 subsequent litigation. Respondent asserts that if these matters were to proceed to hearing, he has
6 evidence, witnesses, expert witness(es) and defenses to the count/claim alleged in the Complaint,
7 but for the purposes of resolving these matters and for no other purpose, Respondent waives the
8 presentation of evidence, witnesses, expert witnesses, and defenses in order to effectuate this
9 Agreement.

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

14 a. Respondent admits Count I, violation of NAC 630.210, as alleged in the
15 Complaint.

16 b. Respondent shall pay a fine in the amount of one thousand dollars
17 (\$1,000.00). Respondent shall pay this amount in six (6) payments, with the first payment of one
18 hundred sixty-six dollars and sixty-six cents (\$166.66) due on or before November 1, 2022, the
19 second payment of one hundred sixty-six dollars and sixty-six cents (\$166.66) due on or before
20 December 1, 2022, and each successive payment due on or before the first day of each month
21 thereafter, with the final payment of one hundred sixty-six dollars and seventy cents (\$166.70)
22 due on or before April 1, 2023. The fine as well as the payment plan are subject to the Board's
23 acceptance, adoption and approval of this Agreement.

24 c. Respondent shall pay the costs and expenses incurred in the investigation
25 and prosecution of the above-referenced matter in the amount of four thousand seventy-two
26 dollars twenty-two cents (\$4,072.22). Respondent shall pay this amount in six (6) payments, with
27 the first payment of six hundred seventy-eight dollars and seventy cents (\$678.70) due on or
28 before November 1, 2022, the second payment of six hundred seventy-eight dollars and seventy

1 cents (\$678.70) due on or before December 1, 2022, and each successive payment due on or
2 before the first day of each month thereafter, with the final payment of six hundred seventy-eight
3 dollars and seventy-two cents (\$678.72) due on or before April 1, 2023. The costs and expenses
4 as well as the payment plan are subject to the Board's acceptance, adoption and approval of this
5 Agreement.

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

8 e. Respondent shall receive a Public Letter of Reprimand.

9 f. Any other claims arising from the Board's corresponding investigative case
10 file(s), shall be dismissed with prejudice.

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

23 7. **Procedure for Adoption of Agreement** The IC and counsel for the IC shall
24 recommend approval and adoption of the terms and conditions of this Agreement by the Board in
25 resolution of the Complaint at an upcoming Board meeting at the Board's earliest convenience,
26 and Respondent hereby waives notice of the same, whether under the United States Constitution,
27 the Nevada Constitution, the Medical Practice Act, the OML, the APA, or otherwise. In the
28 course of seeking Board acceptance, approval and adoption of this Agreement, counsel for the IC

1 may communicate directly with the Board staff and the adjudicating members of the Board.

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

10 8. **Effect of Acceptance of Agreement by Board.** In the event the Board accepts,
11 approves and adopts this Agreement, the Board shall issue a final order, making this Agreement
12 an order of the Board, and, pending full compliance with the terms herein, the case shall be closed
13 and any and all remaining claims arising out of the Complaint shall be dismissed with prejudice.

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

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

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

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

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

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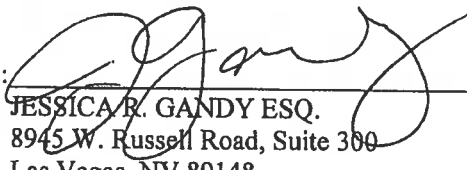
1 Further, Respondent's failure to remit payment to the Board for monies agreed to be paid as a
2 condition of this Agreement may subject Respondent to any civil and administrative collection
3 efforts available.

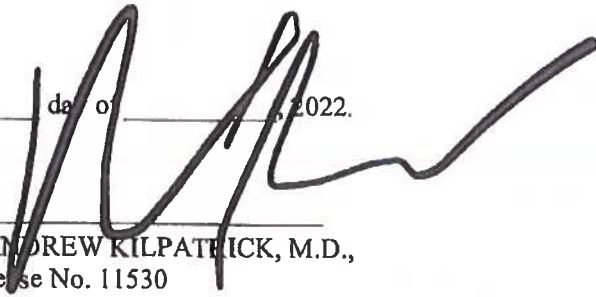
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5 DATED this 31st day of AUGUST, 2022. DATED this 25 day of Aug, 2022.

6 INVESTIGATIVE COMMITTEE OF THE
7 NEVADA STATE BOARD OF MEDICAL
8 EXAMINERS

MESSNER REEVES, LLP

9 By: 
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By: 
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22 *Attorney for Respondent*

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DATED this _____ day of _____, 2022.
By: 
ROBERT ANDREW KILPATRICK, M.D.,
Nevada License No. 11530
Respondent

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ORDER

IT IS HEREBY ORDERED that, the foregoing Settlement Agreement (Case No. 22-20626-1) was approved and accepted by the Nevada State Board of Medical Examiners on the 16th day of September, 2022.

DATED 16th day of September, 2022.

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: VM Muro
VICTOR M. MURO, M.D.
Board President