

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

* * * * *

**In the Matter of Charges and
Complaint Against
BRUCE A. SPERO, M.D.,
Respondent.**

Case No. 12-10270-1

FILED
MAR - 7 2014
**NEVADA STATE BOARD OF
MEDICAL EXAMINERS**
By: _____

SETTLEMENT AGREEMENT

THIS AGREEMENT is hereby entered into by and between the Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board), composed at the time of filing the formal Complaint of Benjamin J. Rodriguez, M.D., Chairman, Beverly A. Neyland, M.D., Member, and Donna A. Ruthe, Member, in the above-captioned matter, by and through Erin L. Albright, Esq., Board General Counsel and attorney for the IC, and Bruce A. Spero, M.D. (Respondent), by and through his counsel, Hal Taylor, Esq., as follows:

WHEREAS, on December 28, 2012, the Board's IC filed a formal Complaint in the above-captioned matter charging Respondent with engaging in conduct that is grounds for discipline pursuant to the Nevada Medical Practice Act (MPA), i.e., Nevada Revised Statutes (NRS) Chapter 630 and Nevada Administrative Code (NAC) Chapter 630, to wit: Count I, six counts of malpractice as defined by NAC 630.040, six violations of NRS 630.301(4); Count II, six counts of failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient, six violations of NRS 630.3062(1); and Count III, six counts of continual failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing in the same specialty or field, six violations of NRS 630.306(7); and

1 **WHEREAS**, Respondent received a copy of the formal Complaint, reviewed it,
2 understands it, and consulted with above-identified counsel concerning the nature and significance
3 of the formal Complaint. Respondent is fully advised concerning his rights and defenses to the
4 formal Complaint, as well as the possible sanctions that may be imposed if the Board finds and
5 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:

26

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, or any
other 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 is represented by above-identified counsel herein, whom Respondent
7 covenants and agrees is fully capable, competent and fully advised in these circumstances, and
8 Respondent further covenants and agrees that he enters into this Agreement knowingly, willingly,
9 and intelligently after full consultation with and upon advice of above-identified counsel.

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

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

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

25 **5. Consent to Entry of Order.** In order to resolve the matter of these disciplinary
26 proceedings pending against him without incurring any further costs and expense of providing a
27 defense to the formal Complaint, Respondent hereby agrees that the Board may issue an Order

28 ///

1 finding that Respondent engaged in conduct that is grounds for discipline pursuant to the MPA,
2 and agrees that:

3 a. The Board may find Respondent engaged in conduct that is grounds for
4 discipline pursuant to the MPA, to wit: three counts of failure to maintain timely, legible, accurate
5 and complete medical records relating to the diagnosis, treatment and care of a patient, three
6 violations of NRS 630.3062(1), as set forth in Count II of the formal Complaint;

7 b. Respondent shall be issued a public reprimand;

8 c. Respondent shall pay a fine of One Thousand and 00/100 Dollars
9 (\$1,000.00) to the Board within one hundred eighty (180) days of the Board's acceptance,
10 adoption and approval of this Agreement;

11 d. Respondent shall complete forty-five (45) hours of community service in a
12 medically related field that is pre-approved by the Board prior to completion, within one year of
13 the acceptance, adoption and approval of this Agreement by the Board;

14 e. Pursuant to NRS 622.400, Respondent shall reimburse the sum of Four
15 Thousand Seven Hundred Seventeen Dollars and 64/100 (\$4,717.64), the current amount of the
16 costs incurred by the Board to investigate and prosecute this matter, along with the costs to
17 conclude the matter, if any. The costs shall be paid to the Board within one hundred eighty (180)
18 days of the Board's acceptance, adoption and approval of this Agreement;

19 f. Count I of the formal Complaint shall be dismissed;

20 g. Count III of the formal Complaint shall be dismissed;

21 h. Three of the six counts of failure to maintain timely, legible, accurate and
22 complete medical records relating to the diagnosis, treatment and care of a patient, three violations
23 of NRS 630.3062(1), as set forth in Count II of the formal Complaint shall be dismissed;

24 i. Respondent shall remain in compliance with all state and federal laws
25 pertaining to the practice of medicine and the prescribing, administering or dispensing of any
26 dangerous drug or controlled substance for a period of twelve (12) months from the date of the
27 Board's acceptance, adoption and approval of the Agreement;

28 ///

1 j. Respondent shall fully comply with all terms and conditions of the
2 Agreement;

3 k. The terms of this Agreement shall be reported as required by law.

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

12 **7. Procedure for Adoption of Agreement.** The IC and counsel for the IC shall
13 recommend approval and adoption of the terms, covenants and conditions contained herein by the
14 Board in resolution of the formal Complaint pending herein against Respondent. In the course of
15 seeking Board approval, adoption and/or acceptance of this Agreement, counsel for the IC may
16 communicate directly with the Board staff and the adjudicating members of the Board.

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

26 **8. Effect of Acceptance of Agreement by Board.** In the event the Board approves,
27 accepts and adopts the terms, covenants and conditions set out in this Agreement, counsel for the
28 IC will cause the Board's order accepting, adopting and approving this Agreement to be entered

1 herein, ordering full compliance with the terms herein and ordering that this case be closed,
2 subject to the provisions in Paragraph 5.

3 **9. Effect of Rejection of Agreement by Board.** In the event the Board does not
4 accept, approve and adopt the terms, covenants and conditions set out in this Agreement, this
5 Agreement shall be null, void, and of no further force and effect except as to the following
6 covenant and agreement regarding disqualification of adjudicating Board panel members.
7 Respondent agrees that, notwithstanding rejection of this Agreement by the Board, nothing
8 contained herein and nothing that occurs pursuant to efforts of the IC or its counsel to seek
9 acceptance and adoption of this Agreement by the Board shall disqualify any member of the
10 adjudicating panel of the Board from considering the charges against Respondent and
11 participating in the disciplinary proceedings in any role, including adjudication of the case.
12 Respondent further agrees that he shall not seek to disqualify any such member absent evidence of
13 bad faith.

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

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

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


24 **13. Failure to Comply With Terms.** In the event the Board enters its order approving
25 this Agreement, should Respondent fail to comply with any term or condition recited herein, the
26 Board shall be authorized to immediately suspend Respondent's license to practice medicine in
27 the state of Nevada pending an order to show cause hearing, which will be duly noticed.
28 Further, failure to comply with the terms recited herein may result in additional disciplinary action

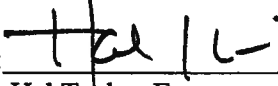
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

being initiated against Respondent for a violation of an order of the Board in accordance with NRS 630.3065(2)(a). Moreover, the failure of Respondent to reimburse the Board for monies agreed to be paid as a condition of settlement may subject Respondent to civil collection efforts.


Dated this 20th day of January, 2014.

Dated this 20th day of January, 2014.

By: 
Erin L. Albright, Esq.
Attorney for the Investigative Committee

By: 
Hal Taylor, Esq.
Attorney for Respondent

UNDERSTOOD AND AGREED:


Bruce A. Spero, M.D. Respondent
Dated this 20 day of JAN., 2014.

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 7th day of March 2014, with the final total amount of
3 costs due of \$4,717.64.

4
5 
6 Michael J. Fischer, M.D., President
NEVADA STATE BOARD OF MEDICAL EXAMINERS

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28