BEFORE THE STATE BOARD OF REGISTRATION FOR THE HEALING ARTS

STATE BOARD OF REGISTRATION FOR THE HEALING ARTS,	)	
Board,	)	
v.	)	HA01017976
JAMES D. SCHOEN, M.D.,	)	
Licensee.	)	

SETTLEMENT AGREEMENT

James D. Schoen, M.D., ("Licensee") and the State Board of Registration for the Healing Arts (the "Board") enter into this Agreement for the purpose of resolving the question of whether Dr. Schoen's temporary license as a physician or surgeon will be subject to discipline. Licensee and the Board jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to §621.045, RSMo Supp. 1998.

1. Licensee acknowledges that he understands the various rights and privileges afforded by law, including the right to a hearing of the charges against Licensee; the right to appear and be represented by legal counsel; the right to have all charges against Licensee proven upon the record by competent and substantial evidence; the right to cross-examine any witness appearing at the hearing against Licensee; the right to present evidence on Licensee's own behalf; the right to a

decision based upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against Licensee; and subsequently, the right to a disciplinary hearing before the Board at which time evidence may be presented in mitigation of discipline. Having been advised of these rights provided Licensee by operation of law, Licensee knowingly and voluntarily waives each and every one of these rights and freely enters into this Agreement and agrees to abide by the terms of this document as they pertain to Licensee.

2. Licensee acknowledges that he may, at the time this Agreement is effective or within fifteen days thereafter, submit this Agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties constitute grounds for discipline of Licensee's license.

3. Licensee acknowledges that he has been informed of his right to consult legal counsel in this matter.

4. Licensee hereby waives and releases the Board, its members and any of its employees, agents, or attorneys, including any former Board members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including any claims pursuant to §536.087, RSMo 1994, or any claim arising under 42 U.S.C. 1983, which may be based upon, arise out of, or relate to any of the matters raised in this case or this Agreement, or from the negotiation or execution of this Agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this Agreement in that it

survives in perpetuity even in the event that any court of law deems this Agreement, or any portion thereof, void or unenforceable.

5. The parties stipulate and agree that the disciplinary order agreed to by the Board and Licensee in Part II herein is based only on the Agreement set out in Part I herein. Licensee understands that the Board may take further disciplinary action against Licensee based on facts or conduct not specifically mentioned in this document that are either now known to the Board or may be discovered.

6. The parties stipulate that this agreement is entered into in order to resolve the Board's case, no. HA01017976, and is not an admission of liability on the part of Dr. Schoen for use in any other proceeding pursuant to *State ex rel. Malan v. Huesemann*, 942 S.W.2d 424 (Mo. App. W.D. 1997).

7. Licensee understands and agrees that the Missouri State Board of Registration for the Healing Arts will maintain this Agreement as an open record of the Board as required by Chapters 334, 610, 620, and 621, RSMo, as amended.

I.

Based upon the foregoing, Board and Licensee herein jointly stipulate to the following:

JOINT PROPOSED FINDINGS OF FACT

1. The State Board of Registration for the Healing Arts (the "Board") is an agency of the State of Missouri created and established pursuant to §334.120, for the purpose of executing and enforcing the provisions of Chapter 334, RSMo.

2. James D. Schoen, M.D., holds a temporary license issued by the Board as a physician and surgeon to practice at the St. Louis University Medical Center, license number MD115224, which was first issued on July 1, 1998. Licensee's temporary license is current, and was so at all times relevant herein.

3. Schoen is a 1998 graduate of St. Louis University School of Medicine.

4. On or about October 1996, Schoen took and passed Step 1 of the United States Medical Licensing Examination (USMLE) with a score of 178.

5. During the final year of medical school, Schoen applied for a position in a residency program.

6. As part of the residency program application process, Schoen was required to submit a copy of his score on the USMLE Step 1.

7. Schoen caused to be submitted copies of the USMLE score report for the October 1996 Step 1 which had been altered from a passing score of 178 to a higher passing score of 208.

8. The National Board of Medical Examiners (NBME) received information of the altered score and conducted an investigation.

9. On or about January 27, 1999, as a result of their investigation, the NBME barred Schoen from sitting for any further USMLE exams until June 2000.

JOINT PROPOSED CONCLUSIONS OF LAW

1. Cause exists to discipline Schoen's license pursuant to §334.100.2 (14) RSMo Supp. 1998, which provides in pertinent part:

> 2. The Board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his certificate of registration or authority, permit or license for any one or any combination of the following causes:
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> (14) Knowingly making, or causing to be made, or aiding, or abetting in the making of, a false statement in any birth, death or other certificate or document executed in connection with the practice of his profession;
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> * * *

2. Schoen's conduct, as established by the foregoing facts, falls within the intendment of §334.100.2 (14), RSMo Supp. 1998.

3. Cause exists for the Board to take disciplinary action against Licensee's license under §334.100.2 (14), RSMo Supp. 1998.

II.

Based on the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the State Board of Registration for the Healing Arts in this matter under the authority of §621.110, RSMo 1994. This Agreement will be effective immediately on the date entered and finalized by the Board.

A. Effective the date the Board enters into the Agreement:

1. The medical license, No. MD115224, issued to Licensee is hereby PUBLICLY REPRIMANDED.

2. In consideration of the foregoing, the parties consent to the termination of any further proceedings based upon the facts set forth herein.

LICENSEE

James D. Schoen MD 11-24-00
James D. Schoen, M.D. Date

Audrey Hanson McIntosh 12/4/00
Audrey Hanson McIntosh Date
Attorney at Law
Missouri Bar No. 33341
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Attorney for Licensee

BOARD

Tina Steinman 12/6/00
Tina Steinman Date
Executive Director

JEREMIAH W. (JAY) NIXON
Attorney General

James O. Ertle 12-5-00
James O. Ertle Date
Assistant Attorney General
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Attorneys for Board

EFFECTIVE THIS 6 DAY OF December, 2000.