

1 **BEFORE THE NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE**

2 IN THE MATTER OF)
3)
4 RYAN MITCHELL, D.O.,)
License No. 1113)
5 _____)

**NV STATE BOARD OF
OSTEOPATHIC MEDICINE**

DEC 09 2009

FILED

6 **SETTLEMENT AGREEMENT & ORDER**

7 **I. PARTIES**

8 This Settlement Agreement ("Agreement") is made by and between the Nevada State
9 Board of Osteopathic Medicine ("the Board") through their Counsel and Executive Director,
10 Dianna Hegeduis, Esq., Investigating Board Member, Daniel Curtis, D.O., and Ryan Mitchell,
11 D.O. ("Physician") through his counsel, Maria Nutile, Esq., (collectively referred to as "the
12 Parties").

13 **II. RECITALS**

As a preamble to this Agreement, the Parties agree to the following:

- 14 A. A.WHEREAS, the Physician has engaged in certain conduct that resulted in criminal
15 charges being filed against him in Henderson, Nevada, once in 2008 and once in 2009.
16 All such criminal charges have since been resolved. In renewing his license for the
17 calendar year 2009, Physician responded "no" to certain questions regarding any
18 investigations conducted of him by various entities, when in fact there had been an
19 investigation
- 20 C. WHEREAS, the Parties understand that this Agreement will be signed by the respective
21 parties and will then be offered to the Board for the entire Board's approval at the next
22 Board meeting, with the recommendation of Board Counsel that this Agreement be
23 approved with such modifications as the Board and Physician mutually agree. The
24 Agreement shall become effective the date it has been approved by the Board.
- 25 D NRS 633.131(1) defines "unprofessional conduct" as including "willfully making a false
26 . . . statement . . . in applying for a license to practice osteopathic medicine or in applying
27 for renewal of a license to practice osteopathic medicine." Pursuant to NRS 633.511(1),
28 "unprofessional conduct" is a ground for initiating a formal disciplinary proceeding; and

1 pursuant to NRS 633.651, such discipline may include public reprimands, the suspension
2 of the license to practice osteopathic medicine in the State of Nevada, and even the
3 revocation of the license to practice osteopathic medicine in the State of Nevada.

4 E. NAC 633.350 (9) states that “a licensee engages in unethical conduct if he . . . engages in
5 any other conduct that the Board determines constitutes [an] unfitness to practice
6 osteopathic medicine.”

7 F. NRS 622.400(1) states that a “regulatory body [such as this Board] may recover from a
8 person reasonable attorney’s fees and costs that are incurred by the regulatory body as
9 part of its investigative, administrative and disciplinary proceedings against the person if
10 the regulatory body” either enters a final order or enters into a settlement agreement.

11 G. WHEREAS, the parties have agreed to settle this matter, rather than requiring the Board
12 to file a formal disciplinary complaint regarding the inaccurate/incomplete application for
13 renewal.

14 H. WHEREAS, the parties understand that this Agreement will be signed by the respective
15 parties and will then be offered to the Board for the entire Board’s approval at the next
16 Board meeting, with the recommendation of the Investigating Board Member that this
17 matter be settled. The Agreement shall not become effective until it has been approved
18 by a majority of the Board and endorsed by a representative member of the Board.

19 I. WHEREAS, the Physician understands that the Board is free to accept or reject this
20 Agreement and, if rejected by the Board, a formal disciplinary complaint will be filed and
21 a hearing scheduled on the same. The Board members who review this matter for
22 approval of this Agreement may be the same members who ultimately hear the
23 disciplinary complaint if this Agreement is not approved by the Board. Physician hereby
24 agrees to waive any rights he might have to challenge the impartiality of the Board to
25 hear the disciplinary complaint, based on prior knowledge obtained by the Board through
26 consideration of this Agreement, if after review by the Board, this Agreement is rejected.
27 Furthermore, if the Board does not accept the Agreement, it shall be regarded as null and
28 void.

- 1 J. WHEREAS, Physician acknowledges that the Board will retain jurisdiction over this
2 matter until all terms and conditions set forth in this Agreement and Order have been met
3 to the satisfaction of the Board.
- 4 K. WHEREAS, Physician acknowledges that the Board had a reasonable basis to believe
5 that the statutes and/or regulations regulating the practice of osteopathic medicine in the
6 State of Nevada may have been violated.
- 7 L. WHEREAS, in order to resolve the matter prior to it becoming a disciplinary proceeding
8 and to save further costs and expenses, Physician has elected to enter into this Agreement
9 to resolve this matter, and this matter only.
- 10 M. WHEREAS, Physician acknowledges that once accepted by the Board, this Agreement
11 and all associated documentation become a matter of public record.
- 12 N. WHEREAS, Physician has had the opportunity to obtain the advice from competent
13 counsel of his choice concerning the terms and conditions of this Agreement and the
14 execution thereof. No coercion has been exerted upon Physician, nor have any promises
15 been made other than those reflected in this Agreement. Physician freely and voluntarily
16 entered into this agreement, motivated only by a desire to resolve the issues addressed
17 herein. Physician has executed this Agreement only after a careful reading of it and a full
18 understanding of all its terms.
- 19 O. WHEREAS, Physician is fully aware of his rights to contest the charges pending against
20 him. These rights include: representation by an attorney at his own expense, the right to a
21 public hearing on any charges or allegations filed, the right to confront and cross-examine
22 witnesses called to testify against him, the right to present evidence on his own behalf,
23 the right to compulsory process to secure the attendance of such witnesses, the right to
24 testify on his own behalf, the right to receive written findings of fact and conclusions of
25 law supporting the decision on the merits of the complaint and the right to obtain judicial
26 review of the Board's decision. Should the Board accept this Agreement, Physician
27 voluntarily waives these rights.
- 28

1 P. WHEREAS, this Agreement and Order shall be construed in accordance with the laws of
2 the State of Nevada.

3 Q. WHEREAS, this Agreement and Order contains a complete description of the agreement
4 between the parties and it supersedes any previous agreements between the parties. All
5 material representations, understandings and promises of the parties are contained in this
6 Agreement. Any modifications must be set forth in writing, signed by all the parties, and
7 approved by the Board.

8 **III. TERMS OF THE AGREEMENT**

9 A. Physician acknowledges that violating NRS 633.131(1)(a), NRS 633.131(1)(h), and NAC
10 633.350(9) is grounds for discipline. The parties have agreed to resolve this matter
11 without the necessity of filing a formal disciplinary complaint by entering into this
12 Agreement. In exchange for the Board not pursuing an administrative action and
13 Physician not pursuing subsequent reviews by the appropriate appellate Courts, the
14 parties have agreed to resolve the current matter, and only this matter. Physician will
15 henceforth insure that all matters involving him will be timely and accurately reported to
16 the Board, and the failure to do so may result in the Board bringing a disciplinary action
17 against the osteopathic medical license issued by the Board to Dr. Mitchell.

18 B. The Board will issue to the Physician a letter of public reprimand in the form attached,
19 for violation of NRS 633.131(1)(a) and NRS 633.511(14) for willfully making a false or
20 fraudulent statement in applying for renewal of a license to practice osteopathic
21 medicine.

22 C. Physician agrees to pay the sum of ^{\$}15,000 Dollars (\$15,000⁰⁰) as the fine imposed for
23 having violated certain provisions of NRS and NAC chapters 633. This sum **includes** all
24 fees and costs incurred by the Board up to and including the approval of this Settlement
25 Agreement by the Board at its next scheduled Board meeting. Physician shall pay this
26 amount in 18 monthly installments of \$ 833.³³, commencing one year from the date
27 of the Board's approval of this Agreement.

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- 1 D. Should the Physician fail to satisfy and pay the indebtedness in a timely manner as
2 discussed herein, Physician understands and agrees that he will be considered in default
3 of this Agreement, and this Agreement will be null and void, with the Respondent
4 receiving credit for payments made to date. The Board may take whatever action it
5 deems appropriate, including but not limited to reducing the balance to judgment
6 pursuant to NRS chapter 353C.
- 7 E. The Physician agrees to bear his own fees and costs, including the fees and expenses of
8 his own attorney(s) if applicable.
- 9 F. This Agreement and Order shall inure to the benefit of and be binding upon each of the
10 parties hereto and their respective heirs, personal representatives, assigns and successors
11 in interest of each party.
- 12 G. This Agreement and Order shall be construed in accordance with the laws of the State of
13 Nevada.
- 14 H. This Agreement consists of eight (8) pages and embodies the entire agreement between
15 the Board and the osteopathic physician. It may not be altered, amended or modified
16 without the express consent of the parties, and any subsequent alteration, amendment, or
17 modification shall be in writing and subject to approval by the Board.
- 18 I. In consideration for the execution of this Agreement, Physician hereby releases and
19 forever discharges the State of Nevada, the Board of Osteopathic Medicine, and the
20 Nevada State Attorney General's Office (as counsel for the Board), and each of their
21 representatives, investigators, and employees, in their individual and representative
22 capacity (collectively the State of Nevada Agencies) from any and all manner of actions,
23 causes of actions, suits, debts, judgments, executions, claims, and demands whatsoever
24 known or unknown, in law and in equity, that he may have had, now has, may have had,
25 or claim to have against any and all of the persons and entities named in this paragraph
26 arising out of, or by reason of, the investigation of the allegations raised in this matter.
- 27 J. Physician, for himself, his heirs, executors, administrators, successors and assigns, hereby
28 indemnifies and holds harmless the State of Nevada, the Nevada State Board of

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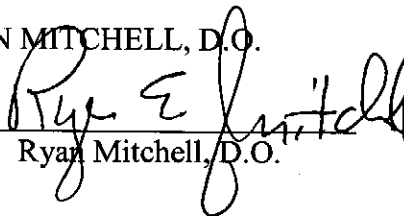
Osteopathic Medicine, the Nevada Attorney General's office and each of their members, agents and employees in their individual and representative capacities against any and all claims, suits, demands, actions, debts, damages, costs, charges, and expenses, including court costs and attorney's fees against any persons or entities as well as all liability, losses, and damages of any nature whatsoever that the persons and entities named in this paragraph shall have or may at any time sustain or suffer by reason of this investigation, this disciplinary action, this Agreement or its administration.

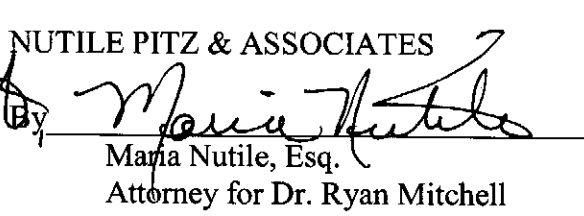
K. This document may be prepared in multiple counterparts. Each counterpart, whether it be originally typed, a carbon, photocopy, facsimile or other type of copy, shall be deemed an original hereof if executed by each of the Parties hereto.

L. Lastly,, by executing this agreement, Respondent Physician hereby expressly, knowingly, and intentionally waives the 21-working days notice requirement pursuant to Nevada's Open Meeting Law and acknowledges that this Agreement shall be on the agenda for the Board's approval in the month of December, 2009.

RYAN MITCHELL, D.O.

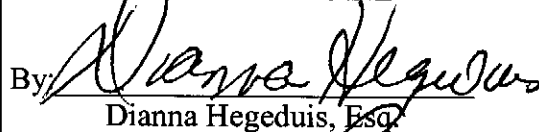
NUTILE PITZ & ASSOCIATES

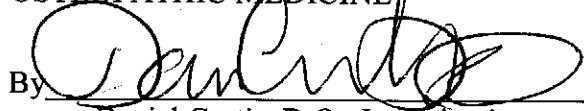

Ryan Mitchell, D.O.


By Maria Nutile, Esq.
Attorney for Dr. Ryan Mitchell

NEVADA STATE BOARD OF
OSTEOPATHIC MEDICINE

NEVADA STATE BOARD OF
OSTEOPATHIC MEDICINE

By 
Dianna Hegeduis, Esq.
Board Counsel / Executive
Director

By 
Daniel Curtis, D.O., Investigative
Board Member

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FILED

ORDER OF THE BOARD

IT IS SO ORDERED.

IT IS FURTHER ORDERED that should Physician fail to comply with any terms or conditions of this Agreement, Physician will be in breach of this Agreement; and this Agreement will be null and void. The Board may take whatever action it deems appropriate, including but not limited to proceeding with disciplinary action against Physician and his license to practice Osteopathic Medicine in the State of Nevada. Should this Agreement become null and void by Physician's failure to comply with terms or conditions of this Agreement, the Board may not only pursue an administrative action against Physician, but the Board may also seek the maximum fees, fines, and costs.

IT IS ORDERED that the following public reprimand shall be issued by the Board immediately upon approval of this Agreement and that the public reprimand shall be posted on the Board's website for a period of 90 days and thereafter maintained in the licensing file of this Physician. This public reprimand shall also be provided to the National Practitioner Data Bank pursuant to the applicable federal codes.

DATED this 8th day of December, 2009.

NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

By:



C. Dean Milne, D.O., Vice-Chairman

