

Public

BEFORE THE NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

1
2 IN THE MATTER OF)
3)
4 PHYSICIAN)
_____)

**NV STATE BOARD OF
OSTEOPATHIC MEDICINE**

DEC 09 2009

FILED

REMEDICATION AGREEMENT

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6 **I. PARTIES**

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

11 **II. RECITALS**

12 The purpose of this Agreement is to advance Physician's functioning as a licensed
13 physician and ensure to the extent possible the safety of his patients and the public. As a
14 preamble to this Agreement, the Parties agree to the following:

- 15 A. WHEREAS, Physician has voluntarily refrained from the practice of medicine since
16 February 2009. At the Board's request, Physician formally placed his osteopathic medical
17 license in inactive status, until such time as Physician could appear before the Board for
18 reinstatement to active status and approval of such reinstatement by the Board.
- 19 B. WHEREAS, the Board is authorized to enter into remediation agreements pursuant to
20 Senate Bill 269, Section 67, 2009 Nevada Legislature; and this Agreement complies with
21 Senate Bill 269.
- 22 C. WHEREAS, the Parties have agreed to enter into this Agreement in order to remediate
23 the practice of Physician and to facilitate reinstatement of his osteopathic license to
24 active status.
- 25 D. WHEREAS, the Parties understand that this Agreement will be signed by the respective
26 parties and will then be offered to the Board for the entire Board's approval at the next
27 Board meeting, with the recommendation of Board Counsel that this Agreement be
28 approved with such modifications as the Board and Physician mutually agree. The
Agreement shall become effective the date it has been approved by the Board.

- 1 E. WHEREAS, this Agreement does not constitute disciplinary action and is not reportable
2 to any national database pursuant to Senate Bill 269.
- 3 F. WHEREAS, if Physician violates any provision of the Agreement, especially as it
4 pertains to any and all diversion programs, including their terms and conditions, which
5 may be required under this Agreement, the Board may take any action it deems
6 appropriate, including, without limitation, initiating disciplinary proceedings against
7 Physician pursuant to Senate Bill 269, Section 67(5).
- 8 G. Physician understands that the Board is free to accept or reject this Agreement and, if
9 rejected by the Board, a formal Complaint against Physician may be filed. The Board
10 members who review this matter for approval of this Agreement may be the same
11 members who ultimately hear the disciplinary complaint if this Agreement is not
12 approved by the Board. Physician hereby agrees to waive any rights he might have to
13 challenge the impartiality of the Board to hear the disciplinary complaint, based on prior
14 knowledge obtained by the Board through consideration of this Agreement, if after
15 review by the Board, this Agreement is rejected. Furthermore, if the Board does not
16 accept the Agreement, it shall be regarded as null and void.
- 17 H. WHEREAS, Physician acknowledges that the Board will retain jurisdiction over this
18 matter until all terms and conditions set forth in this Agreement have been met to the
19 satisfaction of the Board.
- 20 I. WHEREAS, Physician acknowledges that the Board had a reasonable basis to believe
21 that the statutes and/or regulations regulating the practice of Osteopathic Medicine in the
22 State of Nevada may have been violated; specifically, NRS 633.131(1)(a) and (h), NRS
23 633.511(14), and NAC 633.350(9). Physician agrees to henceforth abide by all rules
24 governing the practice of osteopathic medicine in Nevada.
- 25 J. WHEREAS, Physician voluntarily entered an outpatient program for addiction as well as
26 a diversion program in February 2009. Physician had been previously charged with
27 criminal actions, which stemmed from his addiction. Since entering into a diversion
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- 1 program, the Physician has been active and compliant with all terms and conditions
2 placed upon this Physician by the various diversion programs.
- 3 K. WHEREAS, all conditions as to the criminal charges will have been resolved as of
4 December 31, 2009, except the remaining term of probation.
- 5 L. WHEREAS, several treating and examining physicians and health care professionals
6 have provided letters and opinions that Physician is safe to return to the practice of
7 medicine.
- 8 M. WHEREAS, in order to resolve all issues and to save further costs and expenses,
9 Physician has elected to enter into this Agreement.
- 10 N. WHEREAS, Physician acknowledges that once accepted by the Board, this Agreement is
11 a public record. However, the Board shall ensure that all identifying information
12 regarding Physician is removed pursuant to Senate Bill 269, Section 67, enacted by the
13 2009 Nevada Legislature.
- 14 O. WHEREAS, Physician has had the opportunity to obtain the advice from competent
15 counsel of his choice concerning the terms and conditions of this Agreement and the
16 execution thereof. No coercion has been exerted upon Physician, nor have any
17 promises been made other than those reflected in this Agreement. Physician freely and
18 voluntarily entered into this Agreement, motivated only by a desire to resolve the issues
19 addressed herein. Physician has executed this Agreement only after a careful reading
20 of it and a full understanding of all its terms.
- 21 P. WHEREAS, this Agreement shall be construed in accordance with the laws of the State
22 of Nevada.
- 23 Q. WHEREAS, this Agreement contains a complete description of the agreement between
24 the Parties and it supersedes any previous remediation agreements between the Parties.
25 All material representations, understandings and promises of the Parties are contained in
26 this Agreement. Any modifications must be set forth in writing, signed by all the Parties,
27 and approved by the Board.
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1 **III. TERMS OF THE AGREEMENT**

- 2 A. The parties have agreed to resolve this matter without the necessity of filing a formal
3 disciplinary complaint by entering into this Agreement. Physician shall continue
4 participation with the Professional Recovery Network administered by Mr. Larry
5 Espadero, Director of Addictive Disease at Montevista Hospital, Las Vegas, Nevada for
6 the 5-year term of his participation contract, or any other diversion program ("Diversion
7 Program") mutually agreed to by Physician and Board. Terms of the Diversion Program
8 contract shall include but are not limited to random drug monitoring, attendance at
9 Diversion Program meetings, and attendance at self-help group meetings. The Diversion
10 Program shall provide monthly status reports to the Board Counsel regarding Physician's
11 progress, participation, and drug monitoring status.
- 12 B. Physician will be supervised for a period of twelve (12) months from the date of his
13 return to practice by either an osteopathic or allopathic physician approved by the Board
14 and in good standing with his/her applicable licensing board. Such supervision will
15 consist of on-site monitoring for the first thirty (30) days after returns to practice as well
16 as a retrospective review of patient charts and operative reports. The supervising
17 physician will submit quarterly reports to the Board, beginning three (3) months after the
18 renewal of Physician's license on January 1, 2010.
- 19 C. Physician's osteopathic medical license will be reinstated to active status and Physician's
20 osteopathic medical license will then be considered renewed effective January 1, 2010
21 (inasmuch as the application to return to active status from inactive status is the same
22 application as the application for yearly renewal) under the following conditions:
23 Physician will be allowed to return to the practice of medicine on a limited basis of no
24 more than 20 hours of patient contact per week for the first 60 days; thereafter, Physician
25 will be allowed to return to the full-time active practice of medicine pursuant to the terms
26 of this Agreement.
- 27 D. Physician will not administer, prescribe, or dispense controlled substances in Schedules
28 II, III, IV, and V until restoration of his Drug Enforcement Administration registration.

1 All administration, prescription, and dispensing of controlled substances to Physician's
2 patients will be performed either by Physician's supervising physician or by the surgical
3 anesthesiologist, in accordance with the Code of Federal Regulations ("CFR) 21 §
4 1301.22, Exemption of Agents and Employees; Affiliated Practitioners.

5 E. In accordance with NRS 433.471, Physician must attend courses or programs of
6 continuing medical education approved by the Board totaling the number of hours
7 established by the Board. During the 2010 calendar year, Physician will also enroll in a
8 course of medical ethics, physician prescribing, and coping with the stress in the practice
9 of medicine approved in advance by the Board. Upon completion of the courses,
10 Physician shall submit a certificate of successful completion to the Board. Physician
11 shall bear all costs incurred in his attendance of these continuing medical education
12 courses.

13 F. Physician maintains the ability to work full-time with the above terms and conditions,
14 such terms and conditions including a part time requirement for the first sixty (60) days
15 after renewal of Physician's license on January 1, 2010. In the event Physician fails to
16 comply with the terms recited herein, including but not limited to a positive drug or
17 alcohol test, the Board would then have grounds to initiate immediate disciplinary action
18 via summary suspension, which action may result in the revocation of the Physician's
19 osteopathic medicine license.

20 G. This Agreement shall be construed in accordance with the laws of the State of Nevada.

21 H. In consideration for the execution of this Agreement, Physician hereby releases and
22 forever discharges the State of Nevada, the Board of Osteopathic Medicine, and the
23 Nevada State Attorney General's Office, and each of their representatives, investigators,
24 and employees, in their individual and representative capacity (collectively the State of
25 Nevada Agencies) from any and all manner of actions, causes of actions, suits, debts,
26 judgments, executions, claims, and demands whatsoever known or unknown, in law and
27 in equity, that he may have had, now has, may have had, or claim to have against any and
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all of the persons and entities named in this paragraph arising out of, or by reason of this Agreement.

- I. Physician, for himself, his heirs, executors, administrators, successors and assigns, hereby indemnifies and holds harmless the State of Nevada, the Nevada State Board of 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 settlement or its administration.
- J. This Agreement may be executed 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.

PHYSICIAN

Not applicable

NUTILE PITZ & ASSOCIATES

By *Maria Nutile*
Maria Nutile, Esq.
Attorney for Physician

NEVADA STATE BOARD OF
OSTEOPATHIC MEDICINE

By *Dianna Hegeduis*
Dianna Hegeduis, Esq.
Board Counsel / Executive
Director

NEVADA STATE BOARD OF
OSTEOPATHIC MEDICINE

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

1 **ORDER OF THE BOARD**

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3 **IT IS SO ORDERED.**

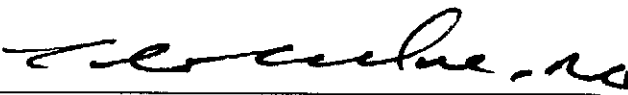
4 **IT IS FURTHER ORDERED** that should Physician fail to comply with any terms or
5 conditions of this Agreement, Physician will be in breach of this Agreement; and this Agreement
6 will be null and void. The Board may take whatever action it deems appropriate, including but
7 not limited to proceeding with disciplinary action against Physician and his license to practice
8 Osteopathic Medicine in the State of Nevada. Should this Agreement become null and void by
9 Physician's failure to comply with terms or conditions of this Agreement, the Board may not
10 only pursue an administrative action against Physician, but the Board may also seek the
11 maximum fees, fines, and costs.
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14 **IT IS ORDERED** that the Physician shall take additional continuing medical education
15 classes totaling 30 hours. The topics or issues of those continuing medical education
16 classes shall include: Medical Ethics, Physician Prescribing, Coping with Stress in the Practice
17 of Medicine.

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19 These classes are in addition to what is statutorily required of the Physician. Proof of
20 completion of these classes shall be submitted by the 31 day of December, 2009.

21 DATED this 8 day of Dec. 2009.

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23 NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

24 By: 
25 C. Dean Milne, D.O., Vice-Chairman
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