

BEFORE THE NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

IN A MATTER INVOLVING

SAMIR PANCHOLI, D.O., LIC. 1308,

Respondent.

)
) CASE NO. MA 1003012
)
)

NV STATE BOARD OF
OSTEOPATHIC MEDICINE

JUN 16 2010

FILED

SETTLEMENT AGREEMENT AND ORDER

I. PARTIES

This Settlement Agreement and Order ("Agreement and Order") is made by and between S. Paul Edwards, Esq., Investigative Board Member ("Mr. Edwards" or "Investigative Board Member") for the Nevada State Board of Osteopathic Medicine ("the Board") through the Board's Counsel/Executive Director, Dianna Hegeduis, Esq., and Samir Pancholi, D.O. ("Dr. Pancholi") (collectively referred to as "the Parties").

II. RECITALS

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

- A. WHEREAS, the Board, through the Investigative Board Member, ascertained certain information regarding litigation filed against Dr. Pancholi. The information was ascertained as a result of the Board's staff due diligence in investigating its applicants/licenseses.
- B. WHEREAS, the Investigative Board Member ("IBM") has alleged as follows:
(1) Re: patient "D.P." Suit was filed in Kentucky in approximately August 2005; and the case was dismissed by the court in August 2007. The physician originally reported the commencement of this action. The IBM has alleged, however, that the physician did not timely report the dismissal of the action to the Board, i.e., within 45 days of the dismissal. (2) The physician submitted his 2008 renewal application in November 2007. The physician responded "no" to the question contained in that renewal application regarding the status of any claims, settlements, or judgments involving professional liability/malpractice cases. Because the "D.P." medical malpractice case was dismissed in August 2007, the response should have been "yes." The IBM has alleged such acts violate NRS chapter 633 as discussed hereinafter.
- C. WHEREAS, NRS 633.527(1) states that a licensed "osteopathic physician shall report to the Board: (a) any action for malpractice against the osteopathic physician not later than 45 days after the osteopathic physician receives service of a summons and complaint for the action; (b) any claim for malpractice against the osteopathic physician that is submitted to arbitration or mediation not later than 45 days after the claim is submitted to arbitration or mediation; (c) any settlement, award, judgment or other disposition or any action or claim described in paragraphs (a) or (b) not later than 45 days after the settlement, award, judgment or other disposition; and (d) any sanctions imposed against the osteopathic physician that are reportable to the National

1 Practitioner Data Bank not later than 45 days after the sanctions are imposed. NRS
2 633.527(2) states that should the Board find "that an osteopathic physician has
3 violated any provision of this section, **the Board may impose a fine of not more than**
4 **\$5,000** against the osteopathic physician **for each violation, in addition to any other**
5 **finest or penalties permitted by law.**" (Emphasis added.) This statute was added to
6 the law in 2003. By the use of the word "shall" by the Nevada State Legislature in this
7 statute, the Legislature intended to mandatorily require all osteopathic physicians to
8 report any of the four (4) events mentioned in the statute.

- 9 D. WHEREAS, NRS 633.131(1) defines "unprofessional conduct" as including "willfully
10 making a false . . . statement . . . in applying for a license to practice osteopathic
11 medicine or in applying for renewal of a license to practice osteopathic medicine."
12 E. WHEREAS, and pursuant to NRS 633.511(1), "unprofessional conduct" is a ground for
13 initiating a formal disciplinary proceeding; and such discipline may include public
14 reprimands, the suspension or revocation of the license to practice osteopathic
15 medicine in the State of Nevada, and an assessment of a fine not to exceed \$5,000
16 per violation.
17 F. WHEREAS, NRS 622.400(1) states that a "regulatory body [such as this Board] may
18 recover from a person reasonable attorney's fees and costs that are incurred by the
19 regulatory body as part of its investigative, administrative and disciplinary proceedings
20 against the person if the regulatory body" either enters a final order or enters into a
21 settlement agreement.
22 G. WHEREAS, the parties have agreed to settle this matter, rather than requiring the
23 Board to file a formal disciplinary complaint.
24 H. WHEREAS, the parties understand that this Agreement will be signed by the
25 respective parties and will then be offered to the Board for the entire Board's approval
26 at the next Board meeting, with the recommendation of the Investigating Board
27 Member that this matter be settled. The Agreement shall not become effective until it
28 has been approved by a majority of the Board and endorsed by a representative
member of the Board.
I. WHEREAS, Dr. Pancholi understands that the Board is free to accept or reject this
Agreement and, if rejected by the Board, a formal disciplinary complaint may be filed
and a hearing scheduled on the same. The Board members who review this matter for
approval of this Agreement may be the same members who ultimately hear the
disciplinary complaint if this Agreement is not approved by the Board. Dr. Pancholi
hereby agrees to waive any rights he might have to challenge the impartiality of the
Board to hear the disciplinary complaint, based on prior knowledge obtained by the
Board through consideration of this Agreement, if after review by the Board, this
Agreement is rejected. Furthermore, if the Board does not accept the Agreement, it
shall be regarded as null and void.
J. WHEREAS, Dr. Pancholi acknowledges that the Board will retain jurisdiction over this
matter until all terms and conditions set forth in this Agreement and Order have been
met to the satisfaction of the Board.
K. WHEREAS, Dr. Pancholi acknowledges that the Board had a reasonable basis to
believe that the statutes and/or regulations regulating the practice of Osteopathic
Medicine in the State of Nevada may have been violated.
L. WHEREAS, in order to resolve the matter prior to it becoming a disciplinary proceeding
and to save further costs and expenses, Dr. Pancholi has elected to enter into this
Agreement to resolve this matter, and this matter only.
M. WHEREAS, Dr. Pancholi acknowledges that once accepted by the Board, this
Agreement and all associated documentation become a matter of public record (with

- 1 the exception of medical information related to the patient).
- 2 N. WHEREAS, Dr. Pancholi has had the opportunity to obtain the advice from competent
- 3 counsel of his choice concerning the terms and conditions of this Agreement and the
- 4 execution thereof. No coercion has been exerted upon Dr. Pancholi, nor have any
- 5 promises been made other than those reflected in this Agreement. Dr. Pancholi freely
- 6 and voluntarily entered into this agreement, motivated only by a desire to resolve the
- 7 issues addressed herein. Dr. Pancholi has executed this Agreement only after a
- 8 careful reading of it and a full understanding of all its terms.
- 9 O. WHEREAS, Dr. Pancholi is fully aware of his rights to contest the charges pending
- 10 against him. These rights include: representation by an attorney at his own expense,
- 11 the right to a public hearing on any charges or allegations filed, the right to confront
- 12 and cross-examine witnesses called to testify against him, the right to present evidence
- 13 on his own behalf, the right to compulsory process to secure the attendance of such
- 14 witnesses, the right to testify on his own behalf, the right to receive written findings of
- 15 fact and conclusions of law supporting the decision on the merits of the complaint and
- 16 the right to obtain judicial review of the Board's decision. Should the Board accept this
- 17 Agreement, Dr. Pancholi voluntarily waives these rights.
- 18 P. WHEREAS, this Agreement and Order shall be construed in accordance with the laws
- 19 of the State of Nevada.
- 20 Q. WHEREAS, this Agreement and Order contains a complete description of the
- 21 agreement between the parties and it supersedes any previous agreements between
- 22 the parties. All material representations, understandings and promises of the parties
- 23 are contained in this Agreement. Any modifications must be set forth in writing, signed
- 24 by all the parties, and approved by the Board.

25 III. TERMS OF THE AGREEMENT

- 26 A. Dr. Pancholi acknowledges that the failure to report allegations are true, and each
- 27 such act (failure to timely report) are violations of NRS chapter 633 for which
- 28 discipline is permissible under Nevada law. In exchange for the Board not pursuing
- an administrative action on either the non-reporting allegations or the inaccurate
- renewal application, and Dr. Pancholi not pursuing subsequent reviews by the
- appropriate appellate Courts, the parties have agreed to resolve the current matter,
- and only this matter. Dr. Pancholi will henceforth insure that all lawsuits involving
- him will be timely and accurately reported to the Board, and the failure to do so may
- result in the Board bringing a disciplinary action against the osteopathic medical
- license issued by the Board to Dr. Pancholi. If any lawsuit is not reported to the
- Board, such will be in violation of this agreement as well as the applicable statutes.
- ADDITIONALLY, THE BOARD ACKNOWLEDGES, AND THE PARTIES DO**
- HEREBY AGREE, THAT A DISCIPLINARY ACTION WILL NOT AND HAS NOT**
- BEEN FILED BY THE BOARD; AND THAT THE PARTIES HAVE SIMPLY**
- AGREED TO AN ADMINISTRATIVE FINE BEING ASSESSED SOLELY TO**
- RESOLVE THE NON-REPORTING ISSUE.** The Board waives any claims or
- allegations with respect to the alleged inaccurate/incorrect renewal application.
- B. Dr. Pancholi agrees to pay the sum of Five Hundred Dollars (\$500.00) as the fine
- imposed for having violated NRS chapter 633. This sum includes all fees and
- costs incurred by the Board up to and including the approval of this settlement
- agreement by the Board at its next scheduled board meeting pursuant to NAC
- 633.470(2)(b)(6). Such amount shall be payable in monthly installments of \$250.00
- each with the first payment being due on the _____ day of _____.

pd full
OK 5020

2010, and a like payment being due on the 1 day of each month thereafter ^{per full}
until said amount is paid in full.

- C. Should Dr. Pancholi fail to satisfy and pay the indebtedness of \$500.00 in a timely manner as discussed herein, Dr. Pancholi understands and agrees that he will be considered in default of this Agreement, and this agreement will be null and void, with the Respondent receiving credit for payments made to date. The Board may take whatever action it deems appropriate, including but not limited to reducing the balance to judgment pursuant to NRS chapter 353C.
- D. The Respondent, Dr. Pancholi, agrees to bear his own fees and costs, including the fees and expenses of his own attorney(s) if applicable.
- E. This Agreement and Order shall inure to the benefit of and be binding upon each of the parties hereto and their respective heirs, personal representatives, assigns and successors in interest of each party.
- F. This Agreement and Order shall be construed in accordance with the laws of the State of Nevada.
- G. This settlement agreement consists of six (6) pages and embodies the entire agreement between the Board and the osteopathic physician. It may not be altered, amended or modified without the express consent of the parties, and any subsequent alteration, amendment, or modification shall be in writing and subject to approval by the Board.
- H. In consideration for the execution of this Agreement, Dr. Pancholi hereby releases and forever discharges the State of Nevada, the Board of Osteopathic Medicine, and the Nevada State Attorney General's Office (as counsel for the Board), and each of their representatives, investigators, and employees, in their individual and representative capacity (collectively the State of Nevada Agencies) from any and all manner of actions, causes of actions, suits, debts, judgments, executions, claims, and demands whatsoever known or unknown, in law and in equity, that he may have had, now has, may have had, or claim to have against any and all of the persons and entities named in this paragraph arising out of, or by reason of, the investigation of the allegations raised in this matter, and other matters relating thereto.
- I. Dr. Pancholi, 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 investigation, this settlement or its administration.
- J. 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.

1 K. LASTLY, by executing this agreement, Physician hereby expressly, knowingly, and
2 intentionally waive the 21-working days notice requirement pursuant to Nevada's
3 Open Meeting Laws and acknowledges that this Agreement shall be on the agenda
4 for the Board's approval in the month of June, 2010 and on
5 the Board's agenda for an order of fulfillment in the month of Aug, 2010.

6 SAMIR PANCHOLI, D.O.

7 By: [Signature]
8 Osteopathic Physician

9 Dated: 5-17-10

10 NEVADA STATE BOARD OF
11 OSTEOPATHIC MEDICINE

12 NEVADA STATE BOARD OF
13 OSTEOPATHIC MEDICINE

14 BY: _____
15 S. Paul Edwards, Esq.
16 Investigating Board Member

17 By _____
18 Dianna Hegeduis, Executive Director -
19 Board Counsel

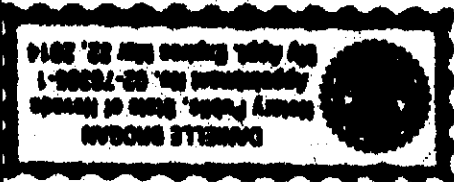
20 Dated: _____

21 Dated: _____

22 **ACKNOWLEDGEMENT**

23 On this the 17th day of May, 2010, the said SAMIR
24 PANCHOLI, D.O., personally appeared before me, a notary public, and signed the above
25 document, freely and voluntarily, under no duress.

26 [Signature]
27 Notary Public



28 **ORDER OF THE BOARD**

IT IS SO ORDERED.

IT IS FURTHER ORDERED that should Dr. Pancholi fail to comply with any terms or conditions of this Agreement, Dr. Pancholi 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 the administrative action against Dr. Pancholi. Should this Agreement become null and void by Dr. Pancholi's failure to comply with terms or

1 K. LASTLY, by executing this agreement, Physician hereby expressly, knowingly, and
2 intentionally waive the 21-working days notice requirement pursuant to Nevada's
3 Open Meeting Laws and acknowledges that this Agreement shall be on the agenda
4 for the Board's approval in the month of June, 2010 and on
5 the Board's agenda for an order of fulfillment in the month of Aug, 2010.

6 SAMIR PANCHOLI, D.O.

7 By: _____
8 Osteopathic Physician

9 Dated: _____

10 NEVADA STATE BOARD OF
11 OSTEOPATHIC MEDICINE

12 BY: S. Paul Edwards
13 S. Paul Edwards, Esq.
14 Investigating Board Member

15 Dated: 5/22/10

16 NEVADA STATE BOARD OF
17 OSTEOPATHIC MEDICINE

18 By: Dianna Hegeduis
19 Dianna Hegeduis, Executive Director -
20 Board Counsel

21 Dated: 6-18-10

22 **ACKNOWLEDGEMENT**

23 On this the _____ day of _____, 2010, the said SAMIR
24 PANCHOLI, D.O., personally appeared before me, a notary public, and signed the above
25 document, freely and voluntarily, under no duress.

26 _____
27 Notary Public

28 **ORDER OF THE BOARD**

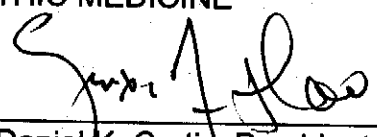
IT IS SO ORDERED.

IT IS FURTHER ORDERED that should Dr. Pancholi fail to comply with any terms or
conditions of this Agreement, Dr. Pancholi 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 the administrative action against Dr. Pancholi.
Should this Agreement become null and void by Dr. Pancholi's failure to comply with terms or

1 conditions of this Agreement, the Board may not only pursue an administrative action against
2 Dr. Pancholi, but the Board may also seek the maximum fees, fines, and costs.

3 DATED this 15 day of June, 2010.

4 NEVADA STATE BOARD OF
5 OSTEOPATHIC MEDICINE

6 BY: 
7 Dr. Daniel K. Curtis, President of the
8 Board

Nevada State Board of Osteopathic Medicine
901 American Pacific Drive Unit 180 • Henderson, NV 89014
(702) 732-2147

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

Nevada State Board of Osteopathic Medicine
901 American Pacific Drive Unit 180 • Henderson, NV 89014
(702) 732-2147

BEFORE THE NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

IN A MATTER INVOLVING

SAMIR PANCHOLI, D.O., LIC. 1308,

Respondent.

)
) NV STATE BOARD OF
) CASE NO. MA 100987 OSTEOPATHIC MEDICINE

JUN 16 2010

FILED

WRITTEN NOTICE OF ENTRY OF SETTLEMENT AGREEMENT
& ORDER RE: SAME

PLEASE TAKE NOTICE that the Nevada State Board of Osteopathic Medicine has approved the settlement agreement in the above-referenced matter; and a copy of the agreement with order is attached.

DATED THIS 16 day of June, 2010.

NEVADA STATE BOARD OF
OSTEOPATHIC MEDICINE

By Dianna Hegeduis
Dianna Hegeduis, Executive Director -
Board Counsel
901 American Pacific Dr., # 180
Henderson, NV 89014

CERTIFICATE OF MAILING

I hereby certify that on the 16 day of June, 2010, I served a copy of the foregoing notice, with attached Settlement Agreement/Order, upon the respective parties to this matter by depositing a true copy thereof in the U.S. mail, addressed to them at their last known address on file with the Board, postage thereon prepaid.

Michelle Rome
An employee of the NEVADA STATE BOARD
OF OSTEOPATHIC MEDICINE