

1 **BEFORE THE NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE**
2 IN THE MATTER OF THE COMPLAINT)
3 AGAINST)
4 ANTHONY POLLARD, D.O., LIC. #426)
5 RESPONDENT.)

**NV STATE BOARD OF
OSTEOPATHIC MEDICINE**
Case No.: MA0907072
OCT 05 2009

Filed: **FILED**

Executive Director

6
7 **SETTLEMENT AGREEMENT AND ORDER**

8 **I. PARTIES**

9 This Settlement Agreement and Order ("Agreement and Order") is made by and
10 between Rota Rosaschi, M.P.A., Investigative Board Member ("Ms. Rosaschi" or
11 "Investigative Board Member") for the Nevada State Board of Osteopathic Medicine ("the
12 Board"), Board's Counsel/Executive Director, Dianna Hegeduis, Esq., and Anthony Pollard,
13 D.O. ("Dr. Pollard") (collectively referred to as "the Parties").

14 **II. RECITALS**

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

- 16
- 17 A. WHEREAS, the Board, through Investigative Board Member Rosaschi, ascertained
18 certain information regarding prior lawsuits filed against Dr. Pollard. The information
19 was ascertained as a result of the Board's staff due diligence in investigating its
20 applicants/licenseses.
- 21 B. WHEREAS, the Investigative Board Member alleged that Dr. Pollard failed to timely
22 report the following: The lawsuit filed by M.M. was settled/dismissed on 6-27-06, and
23 notice was not provided to the Board of that dismissal until Respondent renewed his
24 license in 2007 for the 2008 calendar year, i.e., beyond the 45 day requirement. The
25 lawsuit filed by N.S. was closed on 10-14-08, but not reported until 7-7-09, i.e., beyond
26 the 45 day requirement. The lawsuit involving R.V. was closed/resolved on 1-15-07,
27 but was not mentioned in Respondent's renewal application for 2008, submitted to the
28 Board in December, 2007. **Each** failure to report is a violation of NRS 633.527. Lastly,
on the renewal applications for the year 2007, Dr. Pollard answered "yes" to the
question about whether lawsuits had been filed, or the claims submitted to arbitration-
mediation, and/or settled, but provided no further information regarding the lawsuit(s)
although required to do so.
- C. NRS 633.527(1) states that an "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

1 or mediation; (c) any settlement, award, judgment or other disposition or any action or
2 claim described in paragraphs (a) or (b) not later than 45 days after the settlement,
3 award, judgment or other disposition; and (d) any sanctions imposed against the
4 osteopathic physician that are reportable to the National Practitioner Data Bank not
5 later than 45 days after the sanctions are imposed. NRS 633.527(2) states that should
6 the Board find "that an osteopathic physician has violated any provision of this section,
7 the **Board may impose a fine of not more than \$5,000** against the osteopathic
8 physician **for each violation, in addition to any other fines or penalties permitted**
9 **by law."** (Emphasis added.) This statute was added to the law in 2003. By the use of
10 the word "shall" by the Nevada State Legislature in this statute, the Legislature
11 intended to mandatorily require all osteopathic physicians to report any of the four (4)
12 events mentioned in the statute.

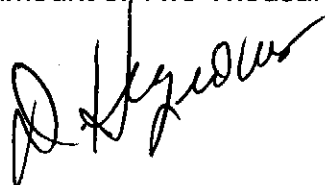
- 13 D. NRS 633.131(1) defines "unprofessional conduct" as including "willfully making a false
14 . . . statement . . . in applying for a license to practice osteopathic medicine or in
15 applying for renewal of a license to practice osteopathic medicine." Pursuant to NRS
16 633.511(1), "unprofessional conduct" is a ground for initiating a formal disciplinary
17 proceeding; and discipline pursuant to NRS 633.651 may include public reprimands,
18 the suspension of the license to practice osteopathic medicine in the Nevada, and even
19 the revocation of the license to practice osteopathic medicine in the State of Nevada.
- 20 E. NRS 622.400(1) states that a "regulatory body [such as this Board] may recover from a
21 person reasonable attorney's fees and costs that are incurred by the regulatory body as
22 part of its investigative, administrative and disciplinary proceedings against the person
23 if the regulatory body" either enters a final order or enters into a settlement agreement.
- 24 F. WHEREAS, the parties have agreed to settle this matter, rather than requiring the
25 Board to file a formal disciplinary complaint.
- 26 G. WHEREAS, the parties understand that this Agreement will be signed by the respective
27 parties and will then be offered to the Board for the entire Board's approval at the next
28 Board meeting, with the recommendation of the Investigating Board Member that this
matter be settled. The Agreement shall not become effective until it has been
approved by a majority of the Board and endorsed by a representative member of the
Board.
- H. WHEREAS, Dr. Pollard understands that the Board is free to accept or reject this
Agreement and, if rejected by the Board, a formal disciplinary complaint will 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. Pollard
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.
- I. WHEREAS, Dr. Pollard 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.
- J. WHEREAS, Dr. Pollard 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.
- K. WHEREAS, in order to resolve the matter prior to it becoming a disciplinary proceeding
and to save further costs and expenses, Dr. Pollard has elected to enter into this
Agreement to resolve this matter, and this matter only.

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

16 III. TERMS OF THE AGREEMENT

- 17 A. Dr. Pollard acknowledges that the failure to report allegations and the inaccurate-
18 incomplete information contained within the renewal applications are true; and each
19 such act is a violation of NRS chapter 633 and discipline is permissible under
20 Nevada law. In exchange for the Board not pursuing an administrative action and
21 Dr. Pollard not pursuing subsequent reviews by the appropriate appellate Courts,
22 the parties have agreed to resolve the current matter, and only this matter. Dr.
23 Pollard will henceforth insure that all lawsuits involving himself will be timely and
24 accurately reported to the Board, and the failure to do so may result in the Board
25 bringing a disciplinary action against the osteopathic medical license issued by the
26 Board to Dr. Pollard. If any lawsuit is not reported to the Board, such will be in
27 violation of this agreement as well as the applicable statutes.
- 28 B. Dr. Pollard agrees to pay the sum of Two Thousand Five Hundred Dollars
(\$2,500.00) as the fine imposed for having violated NRS 633.527(1) for the failure to
timely report the resolution of the lawsuits mentioned above **and** the inaccurate-
incomplete renewal applications. 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 the amount of \$ _____ per month beginning on the
____ day of _____, 2009, and such amount shall continue to be due thereafter on
the ____ day of each month, until the full amount of Two Thousand Five Hundred
Dollars is paid in full.

PAID IN FULL
-3-



- 1 C. Should Dr. Pollard fail to satisfy and pay the indebtedness of \$2,500.00 in a timely
2 manner as discussed herein, Dr. Pollard understands and agrees that he will be
3 considered in default of this Agreement, and this agreement will be null and void,
4 with the Respondent receiving credit for payments made to date. The Board may
5 take whatever action it deems appropriate, including but not limited to reducing the
6 balance to judgment pursuant to NRS chapter 353C.
- 7 D. The Respondent, Dr. Pollard, agrees to bear his own fees and costs, including the
8 fees and expenses of his own attorney(s) if applicable.
- 9 E. This Agreement and Order shall inure to the benefit of and be binding upon each of
10 the parties hereto and their respective heirs, personal representatives, assigns and
11 successors in interest of each party.
- 12 F. This Agreement and Order shall be construed in accordance with the laws of the
13 State of Nevada.
- 14 G. This settlement agreement consists of six (6) pages and embodies the entire
15 agreement between the Board and the osteopathic physician. It may not be altered,
16 amended or modified without the express consent of the parties, and any
17 subsequent alteration, amendment, or modification shall be in writing and subject to
18 approval by the Board.
- 19 H. In consideration for the execution of this Agreement, Dr. Pollard hereby releases
20 and forever discharges the State of Nevada, the Board of Osteopathic Medicine,
21 and the Nevada State Attorney General's Office (as counsel for the Board), and
22 each of their representatives, investigators, and employees, in their individual and
23 representative capacity (collectively the State of Nevada Agencies) from any and all
24 manner of actions, causes of actions, suits, debts, judgments, executions, claims,
25 and demands whatsoever known or unknown, in law and in equity, that he may
26 have had, now has, may have had, or claim to have against any and all of the
27 persons and entities named in this paragraph arising out of, or by reason of, the
28 investigation of the allegations raised in this matter, including those noted in the
administrative complaint on file herein, and other matters relating thereto.
- I. Dr. Pollard, 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 disciplinary action,
this settlement or its administration.

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

4 ANTHONY POLLARD, D.O.

5 Osteopathic Physician

6 Dated: 8/25/09

7 NEVADA STATE BOARD OF
8 OSTEOPATHIC MEDICINE

9 BY: _____

10 Rota Rosaschi, M.P.A.,
11 Investigating Board Member

12 Dated: _____

13 NEVADA STATE BOARD OF
14 OSTEOPATHIC MEDICINE

15 By Dianna Hegeduis

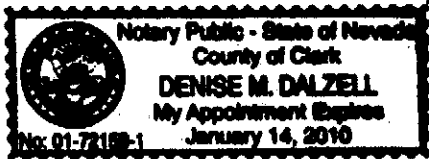
16 Dianna Hegeduis, Executive Director -
17 Board Counsel

18 Dated: 8-25-09

19 **ACKNOWLEDGEMENT**

20 On this the 24 day of August, 2009, the said ANTHONY POLLARD, D.O.,
21 personally appeared before me, a notary public, and signed the above document, freely and
22 voluntarily, under no duress.

23 Denise M. Dalzell
24 Notary Public



25 **ORDER OF THE BOARD**

26 IT IS SO ORDERED.

27 IT IS FURTHER ORDERED that should Dr. Pollard fail to comply with any terms or
28 conditions of this Agreement, Dr. Pollard 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. Pollard.

Should this Agreement become null and void by Dr. Pollard's failure to comply with terms or

.....

.....

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2 whether it be originally typed, a carbon, photocopy, facsimile or other type of copy,
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4 ANTHONY POLLARD, D.O.

5 Osteopathic Physician

Dated: 8/25/09

6 NEVADA STATE BOARD OF
7 OSTEOPATHIC MEDICINE

8 BY: Rota Rosaschi

Rota Rosaschi, M.P.A.,
Investigating Board Member

Dated: 8/26/09

NEVADA STATE BOARD OF
OSTEOPATHIC MEDICINE

By _____

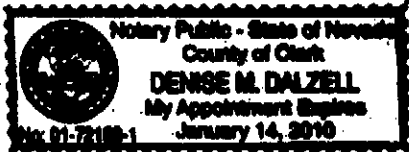
Dianna Hegeduis, Executive Director -
Board Counsel

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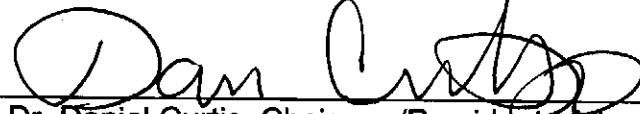
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1 conditions of this Agreement, the Board may not only pursue an administrative action against
2 Dr. Pollard, but the Board may also seek the maximum fees, fines, and costs.

3 DATED this 5 day of Oct, 2009.

4 NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

5
6 BY:



7 Dr. Daniel Curtis, Chairman/President of the
8 Board