

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

2 IN THE MATTER INVOLVING

3 HARRY SIROUNIAN, D.O.,
4 License No. 613

5 **RESPONDENT.**

} Case No.: MA1003001

} Filed:

**NV STATE BOARD OF
OSTEOPATHIC MEDICINE**

AUG 04 2010

6 **SETTLEMENT AGREEMENT AND ORDER**

FILED

7 **I. PARTIES**

8 This Settlement Agreement and Order ("Agreement and Order") is made by and
9
10 between Daniel K. Curtis, D.O., Investigative Board Member ("Dr. Curtis" or "Investigative
11 Board Member") for the Nevada State Board of Osteopathic Medicine ("the Board") through
12 the Board's Counsel/Executive Director, Dianna Hegeduis, Esq., and Harry Sirounian, D.O.
13 ("Dr. Sirounian") (collectively referred to as "the Parties").

14 **II. RECITALS**

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

- 16 A. WHEREAS, the Board, through the Investigative Board Member, ascertained certain
17 information regarding litigation filed against Dr. Sirounian. The information was
18 ascertained as a result of the Board's staff due diligence in investigating its
19 applicants/licenseses.
- 20 B. WHEREAS, the Investigative Board Member ("IBM") has alleged as follows:
21 (1) Re: patient "K.D." Suit was filed and served on Respondent in October 2004, in
22 Phoenix, Arizona; and the case was settled in February 2007; both events were not
23 timely reported to the Board pursuant to statute. The physician did note the settlement
24 of the lawsuit in his renewal application for 2008, submitted in January 2008. The IBM
25 has alleged all such failures are violations of NRS chapter 633 as discussed
26 hereinafter.
- 27 C. NRS 633.527(1) states that a licensed "osteopathic physician **shall report** to the
28 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 Practitioner Data
 Bank not later than 45 days after the sanctions are imposed. NRS 633.527(2) states
 that should the Board find "that an osteopathic physician has violated any provision of

1 this section, **the Board may impose a fine of not more than \$5,000** against the
2 osteopathic physician **for each violation, in addition to any other fines or penalties**
3 **permitted by law.** (Emphasis added.) This statute was added to the law in 2003. By
4 the use of the word "shall" by the Nevada State Legislature in this statute, the
5 Legislature intended to mandatorily require all osteopathic physicians to report any of
6 the four (4) events mentioned in the statute.

- 7 D. NRS 633.131(1) defines "unprofessional conduct" as including "willfully making a false
8 . . . statement . . . in applying for a license to practice osteopathic medicine or in
9 applying for renewal of a license to practice osteopathic medicine." Pursuant to NRS
10 633.511(1), "unprofessional conduct" is a ground for initiating a formal disciplinary
11 proceeding; and such discipline may include public reprimands, the suspension or
12 revocation of the license to practice osteopathic medicine in the State of Nevada, and
13 an assessment of a fine not to exceed \$5,000 per violation.
- 14 E. NRS 622.400(1) states that a "regulatory body [such as this Board] may recover from a
15 person reasonable attorney's fees and costs that are incurred by the regulatory body as
16 part of its investigative, administrative and disciplinary proceedings against the person
17 if the regulatory body" either enters a final order or enters into a settlement agreement.
- 18 F. WHEREAS, the parties have agreed to settle this matter, rather than requiring the
19 Board to file a formal disciplinary complaint.
- 20 G. WHEREAS, the parties understand that this Agreement will be signed by the respective
21 parties and will be offered to the Board for the Board's approval at the next Board
22 meeting, with the recommendation of the Investigating Board Member that this matter
23 be settled. The Agreement shall not become effective until it has been approved by a
24 majority of the Board and endorsed by a representative member of the Board.
- 25 H. WHEREAS, Dr. Sirounian understands that the Board is free to accept or reject this
26 Agreement and, if rejected by the Board, a formal disciplinary complaint may be filed
27 and a hearing scheduled on the same. The Board members who review this matter for
28 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. Sirounian
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. Sirounian 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. Sirounian 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. Sirounian has elected to enter into this
Agreement to resolve this matter, and this matter only.
- L. WHEREAS, Dr. Sirounian acknowledges that once accepted by the Board, this
Agreement and all associated documentation become a matter of public record (with
the exception of medical information related to the patient).
- M. WHEREAS, Dr. Sirounian has had the opportunity to obtain the advice from competent
counsel of his choice concerning the terms and conditions of this Agreement and the
execution thereof. No coercion has been exerted upon Dr. Sirounian, nor have any
promises been made other than those reflected in this Agreement. Dr. Sirounian freely

1 and voluntarily entered into this agreement, motivated only by a desire to resolve the
2 issues addressed herein. Dr. Sirounian has executed this Agreement only after a
3 careful reading of it and a full understanding of all its terms.

- 4 N. WHEREAS, Dr. Sirounian is fully aware of his rights to contest the charges pending
5 against him. These rights include: representation by an attorney at his own expense,
6 the right to a public hearing on any charges or allegations filed, the right to confront and
7 cross-examine witnesses called to testify against him, the right to present evidence on
8 his own behalf, the right to compulsory process to secure the attendance of such
9 witnesses, the right to testify on his own behalf, the right to receive written findings of
10 fact and conclusions of law supporting the decision on the merits of the complaint and
11 the right to obtain judicial review of the Board's decision. Should the Board accept this
12 Agreement, Dr. Sirounian voluntarily waives these rights.
- 13 O. WHEREAS, this Agreement and Order contains a complete description of the
14 agreement between the parties and it supersedes any previous agreements between
15 the parties. All material representations, understandings and promises of the parties
16 are contained in this Agreement. Any modifications must be set forth in writing, signed
17 by all the parties, and approved by the Board.

11 III. TERMS OF THE AGREEMENT

- 12 A. Dr. Sirounian acknowledges that if the failure to report allegations is true, then each
13 such act would be a violation of NRS chapter 633 for which discipline is permissible
14 under Nevada law. In exchange for the Board not pursuing an administrative action,
15 and Dr. Sirounian not pursuing subsequent reviews by the appropriate appellate
16 Courts, the parties have agreed to resolve the current matter, and all issues related
17 thereto. **ADDITIONALLY, THE BOARD ACKNOWLEDGES, AND THE PARTIES
18 DO HEREBY AGREE, THAT A DISCIPLINARY ACTION WILL NOT AND HAS
19 NOT BEEN FILED BY THE BOARD; NOR IS THIS SETTLEMENT TO BE
20 CONSIDERED A DISCIPLINARY ACTION. THE PARTIES HAVE SIMPLY
21 AGREED TO AN ADMINISTRATIVE FINE BEING ASSESSED FOR THE NON-
22 REPORTING OF THIS LAWSUIT - - SIMILAR TO AN ADMINISTRATIVE FINE
23 BEING ASSESSED FOR FAILURE TO REPORT A CHANGE OF ADDRESS.**
- 24 B. Dr. Sirounian agrees to pay the sum of Five Hundred Dollars (\$500.00) as the fine
25 imposed for having violated NRS 633.527(1). This sum includes all fees and costs
26 incurred by the Board up to and including the approval of this agreement by the
27 Board at its next scheduled board meeting pursuant to NAC 633.470(2)(b)(6). Such
28 amount shall be payable at the time of the execution of this document.
- 29 C. Should Dr. Sirounian fail to satisfy and pay the indebtedness of \$500.00 in a timely
30 manner as discussed herein, Dr. Sirounian understands and agrees that he will be
31 considered in default of this Agreement, and this agreement will be null and void,
32 with the Respondent receiving credit for payments made to date. The Board may
33 take whatever action it deems appropriate, including but not limited to reducing the
34 balance to judgment pursuant to NRS chapter 353C.
- 35 D. The Respondent, Dr. Sirounian, agrees to bear his own fees and costs, including
36 the fees and expenses of his own attorney(s) if applicable.
- 37 E. This Agreement and Order shall inure to the benefit of and be binding upon each of
38 the parties hereto and their respective heirs, personal representatives, assigns and
39 successors in interest of each party.
- 40 F. This Agreement and Order shall be construed in accordance with Nevada's laws.

- 1 G. This agreement consists of five (5) pages and embodies the entire agreement
 2 between the Board and the osteopathic physician. It may not be altered, amended
 3 or modified without the express consent of the parties, and any subsequent
 4 alteration or modification shall be in writing and subject to approval by the Board.
 5 H. In consideration for the execution of this Agreement, Dr. Sirounian hereby releases
 6 and forever discharges the State of Nevada, the Board of Osteopathic Medicine,
 7 and the Nevada Attorney General's Office (as Board counsel), and each of their
 8 representatives, investigators, and employees, in their individual and representative
 9 capacity (collectively the State of Nevada Agencies) from any and all manner of
 10 actions, causes of actions, suits, debts, judgments, executions, claims, and
 11 demands whatsoever known or unknown, in law and in equity, that he may have
 12 had, now has, may have had, or claim to have against any and all of the persons
 13 and entities named in this paragraph arising out of, or by reason of, the investigation
 14 of the allegations raised in this matter, and other matters relating thereto.
 15 I. Dr. Sirounian, for himself, his heirs, executors, administrators, successors and
 16 assigns, hereby indemnifies and holds harmless the State of Nevada, the Nevada
 17 State Board of Osteopathic Medicine, the Nevada Attorney General's office and
 18 each of their members, agents and employees in their individual and representative
 19 capacities against any and all claims, suits, demands, actions, debts, damages,
 20 costs, charges, and expenses, including court costs and attorney's fees against any
 21 persons or entities as well as all liability, losses, and damages of any nature
 22 whatsoever that the persons and entities named in this paragraph shall have or may
 23 at any time sustain or suffer by reason of this investigation or this settlement.
 24 J. This document may be prepared in multiple counterparts. Each counterpart,
 25 whether it be originally typed, a carbon, photocopy, facsimile or other type of copy,
 26 shall be deemed an original hereof if executed by each of the Parties hereto.
 27 K. LASTLY, by executing this agreement, Physician hereby expressly, knowingly, and
 28 intentionally waive the 21-working days notice requirement pursuant to Nevada's
 Open Meeting Laws and acknowledges that this Agreement shall be on the agenda
 for the Board's approval in the month of Aug, 2010 and the order of
 fulfillment on the Board's agenda for approval in Sept, 2010.

HARRY SIROUNIAN, D.O.

By: [Signature]
 Osteopathic Physician

Dated: 7/14/10

NEVADA STATE BOARD OF
 OSTEOPATHIC MEDICINE

BY: [Signature]
 Daniel K. Curtis, D.O.
 Investigating Board Member

Dated: 8-3-10

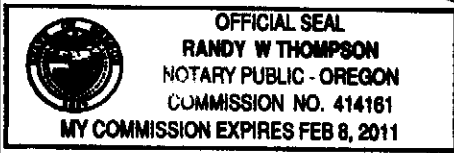
NEVADA STATE BOARD OF
 OSTEOPATHIC MEDICINE

By: [Signature]
 Dianna Hegeduis, Executive Director -
 Board Counsel

Dated: 7-21-10

ACKNOWLEDGEMENT

On this the 14th day of July, 2010, the said HARRY SIROUNIAN, D.O., personally appeared before me, a notary public, and signed the above document, freely and voluntarily, under no duress.



Randy W Thompson
Notary Public

ORDER OF THE BOARD

IT IS SO ORDERED.

IT IS FURTHER ORDERED that should Dr. Sirounian fail to comply with any terms or conditions of this Agreement, Dr. Sirounian 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. Sirounian. Should this Agreement become null and void by Dr. Sirounian's failure to comply with terms or conditions of this Agreement, the Board may not only pursue an administrative action against Dr. Sirounian, but the Board may also seek the maximum fees, fines, and costs.

DATED this 30th day of August, 2010.

NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

BY: _____

P. Milne
Dr. C. Dean Milne, Vice-President of the Board

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WRITTEN NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that an order, approving the settlement agreement in this matter was entered by the Board; and a file-stamped copy of the same is attached hereto.

DATED THIS 4th day of August, 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 4th day of August, 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 Jones

An employee of the NEVADA STATE BOARD
OF OSTEOPATHIC MEDICINE