

ORIGINAL
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BEFORE THE NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

OCT 21 2008

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2
3 IN THE MATTER OF THE COMPLAINT
4 AGAINST
5 SCOTT YOUNG, D. O.,
6 RESPONDENT.

NEVADA STATE BOARD OF
OSTEOPATHIC MEDICINE
Case No.: A00810091

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10 **SETTLEMENT AGREEMENT AND ORDER**

11 The parties to the above-entitled action, the Nevada State Board of Osteopathic
12 Medicine (hereinafter, the "BOARD") and SCOTT YOUNG, D.O., (hereinafter,
13 "RESPONDENT" or "YOUNG")) hereby agree to resolve the instant matter pursuant to the
14 following stipulations:

15 1. RESPONDENT, at all times relevant hereto was licensed by the BOARD to
16 practice medicine in the State of Nevada and the BOARD has jurisdiction over
17 RESPONDENT'S license to practice medicine by virtue of his licensure.

18 2. On February 26, 2008, a Complaint was lodged with the Board which alleged
19 that RESPONDENT was observed performing endoscopy procedures on four (4) patients and,
20 while doing so, using single patient use vials of medications as multiple use vials, with multiple
21 patients.

22 3. Said Complaint further alleged that RESPONDENT opened no new syringes
23 during the treatments of these patients.

24 4. Said Complaint further alleged that, when interviewed, RESPONDENT admitted
25 that, generally speaking, he did not change syringes between patients, but only syringe
26 needles (i.e., the compartment for the delivery of medication remained identical).
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1 RESPONDENT denies making that statement.

2 5. Said Complaint further alleged that, when interviewed, RESPONDENT provided
3 certain scientific justifications for his professional opinion that it was acceptable to use
4 syringes between patients so long as their needles are changed with each patient.

5 6. Said Complaint further alleged that, when interviewed on a second occasion,
6 RESPONDENT indicated that he changed both syringes and their needles between patients.
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8 7. Said Complaint further alleged that, despite his assertion during his second
9 interview that he changed syringes and needles with each successive patient, at no time was
10 RESPONDENT observed opening new syringes or needles for use with successive patients.

11 8. Pursuant to NRS 633.541, upon receiving the instant Complaint concerning the
12 RESPONDENT, the BOARD commenced an investigation.

13 9. That in the course of investigating the matter, interviews of the complainants
14 were conducted. More specifically, one of the individuals lodging the Complaint with the
15 BOARD indicated that she "did not observe the reuse of the syringe. . . . I didn't observe the
16 reuse of the syringe." The interviewee also noted that she "wasn't constantly seeing him. So
17 my observations were very tiny." She also stated "that I want to make clear though, I did not
18 observe him every single moment so all I could say is that I didn't observe it [i.e., opening new
19 syringes/vials]." She continued on, "Yes, and I am being very honest here. I did not see the
20 reuse of the syringe. I did not see the contamination of the vial. I saw pieces of the
21 observation because like I said, I couldn't. I wasn't positioned and I got interrupted where I
22 could [not] see the whole process."
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24 10. A second complainant witness was interviewed by the BOARD during the
25 investigation. During that witness interview, the interviewee stated "I cannot say I observed it.
26 I cannot say while I was observing I observed that. I can only say I saw pieces and with his
27 interview; you know, you can make whatever story you want out of them . . . All I can say is
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1 what I observed and observed pieces and while I was observing I didn't see the reuse of the
2 syringe and I didn't put the pieces together that they were being contaminated."

3 11. YOUNG was also interviewed during the investigation, and explained his typical
4 procedures, but asserted that new, different patients would get new-unused-different syringes
5 and needles. YOUNG acknowledged that, on occasion, if he had to go back into the vial for
6 the same patient, and would use the same needle and syringe. He would then not use that
7 needle, syringe, and vial for a different patient, as he knows the vial, needle, and syringe
8 would be contaminated.
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10 12. YOUNG also claims that the complainants were simply confused about his
11 conversations with them about his procedures.

12 13. After reviewing all available evidence concerning the allegations made against
13 the RESPONDENT, the BOARD has determined that the conduct as described in the
14 Complaint lodged with the BOARD may constitutes unprofessional conduct pursuant to NRS
15 633.131(f)(1) (i.e., conduct which is intended to deceive or which the BOARD by regulation
16 has determined is unethical), NRS 633.131(f)(2) (i.e., medical practice harmful to the public)
17 and NAC 633.350(9) (i.e., conduct which demonstrates RESPONDENT'S unfitness to practice
18 osteopathic medicine).
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20 14. In March 2008, the instant allegations were discussed with RESPONDENT and
21 BOARD staff, and RESPONDENT was afforded opportunities to address them as discussed
22 above.

23 15. RESPONDENT is aware of his rights under Chapters 633 and 233B of the
24 Nevada Revised Statutes, including his right to a formal hearing and opportunity to defend
25 against the charges contained therein, the right to confront and cross-examine witnesses
26 against him, and the right to file a Petition for Judicial Review with the District Court in the
27 State of Nevada for a review of any adverse decision that might be rendered following a
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1 hearing and subsequent appeals therefrom.

2 16. RESPONDENT understands that the BOARD is prepared to proceed with the
3 filing of an Administrative Complaint for the adjudication of the merits of the Complaint lodged
4 with the BOARD at its earliest opportunity.

5 17. RESPONDENT understands that if the BOARD hears the Complaint and finds
6 that a violation has occurred, the BOARD may order any or all of the sanctions be imposed
7 against him as set out in NRS 633.651, including revocation of RESPONDENT'S license to
8 practice osteopathic medicine and the imposition of discipline against him in accordance
9 therewith.

10 18. RESPONDENT for himself, his heirs, executors, administrators, successors and
11 assigns, hereby releases, remises and forever discharges the State of Nevada, the BOARD,
12 the Nevada Office of the Attorney General and each of their members, agents and employees
13 in their individual and representative capacities from any and all manner of actions, causes of
14 actions, suits, debts, judgments, executions, claims and demands whatsoever known or
15 unknown, in law and equity, that RESPONDENT here had, now has, may have or claim to
16 have against any and all persons or entities named in this paragraph arising out of, or by
17 reason of, these matters or any other matter relating thereto.

18 19. In order to resolve this matter, RESPONDENT is entering into this Settlement
19 Agreement and is waiving formal findings of fact and conclusions of law pursuant to the
20 provisions of NRS 233B.121(5). RESPONDENT acknowledges that the allegations, if true,
21 constitute grounds for disciplinary actions under Chapters 633 of the Nevada Revised
22 Statutes and the Nevada Administrative Code.

23 20. RESPONDENT has reviewed the allegations and potential causes of action
24 described herein. In exchange for the dismissal of this matter, RESPONDENT agrees to:
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1 a. Admit that the syringe practices as described by the complainants herein
2 would constitute unprofessional conduct as provided for in NRS 633.131(f), and if such
3 practices were committed by YOUNG, he accepts responsibility for his actions;

4 b. Complete a course concerning aseptic and/or sterile technique, said
5 course to be approved by the BOARD prior to completion;

6 c. Provide the BOARD with a complete list of all patients seen by
7 RESPONDENT during his work with the Gastrointestinal Diagnostic Clinic, located at
8 3196 S. Maryland Parkway;

9 d. Provide the BOARD with immediate notification of any change in his
10 medical privileges or status at any of his practice locations, throughout the remainder of
11 his career as an Osteopathic Physician in the State of Nevada.

12 21. This Settlement Agreement will be considered at a Meeting of the BOARD on
13 September 23, 2008. In the event that the BOARD rejects this Settlement Agreement, a
14 formal Complaint will be issued and this Complaint will proceed to hearing at a later date.

15 22. In the event that the BOARD rejects this Settlement Agreement, this Agreement
16 and all statements contained therein shall be null and void and inadmissible in any proceeding
17 and the parties agree not to contend that the BOARD has been prejudiced or biased in any
18 manner by consideration of this attempted resolution.

19 23. The parties agree that the counsel for the Investigating Board Member in this
20 matter may appear before the BOARD, in open or closed session, outside the presence of
21 RESPONDENT or his counsel, for the purposes of speaking in support of this agreement and
22 answering questions that the members of the BOARD and its staff may have in connection
23 with their deliberations on this matter.

24 WHEREFORE, it is agreed that the Nevada State Board of Osteopathic Medicine,
25 without necessity of formal findings of fact and conclusions of law, which were specifically
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1 waived by RESPONDENT and the BOARD, may issue the following ORDER:

2 1. That this case shall be settled and, in exchange for the settlement of this matter,
3 RESPONDENT will:

4 a. Admit that the syringe practices as described by the complainants herein
5 would constitute unprofessional conduct as provided for in NRS 633.131(f), and if such
6 practices were committed by YOUNG, he accepts responsibility for his actions;

7 b. Complete a course concerning aseptic and/or sterile technique, said
8 course to be approved by the BOARD prior to completion;

9 c. Provide the BOARD with a complete list of all patients seen by
10 RESPONDENT during his work with the Gastrointestinal Diagnostic Clinic, located at
11 3196 S. Maryland Parkway;

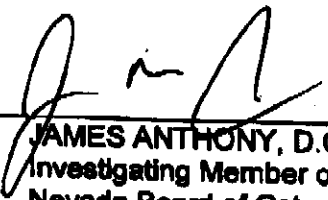
12 d. Provide the BOARD with immediate notification of any change in his
13 medical privileges or status at any of his practice locations, throughout the remainder of
14 his career as an Osteopathic Physician in the State of Nevada.

15 2. Each party will bear their own fees and costs in connection with this matter.

16 Dated this 25th day of September, 2008.

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18 Nevada State Board of Osteopathic Medicine

19
20
21 By:


22 JAMES ANTHONY, D.O.
23 Investigating Member of the
24 Nevada Board of Osteopathic
25 Medicine


26 SCOTT YOUNG, D.O.
27 Respondent

1 Approved and Submitted by:
2 CATHERINE CORTEZ MASTO
3 Attorney General

JOHN COTTON, ESQ.

4 By Dianna Hegeduis
5 Dianna Hegeduis, Sr. Deputy Attorney General
6 555 E. Washington Avenue, Suite 3900
7 Las Vegas, Nevada 89101

By John Cotton
John Cotton, Esq.
2300 W. Sahara Ave., # 420
Las Vegas, NV 89102

8 **ORDER**

9 IT IS SO ORDERED.

10 DATED this 25 day of ~~August~~ SEPTEMBER, 2008.

11 NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

12 BY: Daniel K. Curtis
13 DANIEL K. CURTIS, D.O., CHAIRMAN

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