BEFORE THE NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

IN THE MATTER OF:                      )
JACQUELINE LEVENTHAL, D.O.,            )
License No. 1020,                     )  Case No. AD1404001
Respondent.                           )  SETTLEMENT AGREEMENT AND ORDER

The Nevada State Board of Osteopathic Medicine (the Board), by and through its investigating board member Samir Pancholi, D.O. (the IBM) and its counsel Louis Ling, hereby enters into this Settlement Agreement and Order with Jacqueline Leventhal, D.O. (License No. 1020), represented in this matter by John Bailey of Bailey Kennedy, LLP. Pursuant to chapter 233B and chapter 633 of the Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC), it is hereby stipulated and agreed, by and between the parties in the above-entitled matter, that this matter shall be settled and resolved upon the following terms:

BACKGROUND

1. On June 11, 2014, the Board, through its IBM, filed an Order of Summary Suspension of License to Practice Osteopathic Medicine and a Complaint for Disciplinary Action (Complaint) in this matter. The Order of Summary Suspension and Complaint were subsequently served upon Dr. Leventhal.

2. Subsequent to the filing and service of the Order of Summary Suspension and the Complaint, Dr. Leventhal retained the law firm Bailey Kennedy, LLP to represent her in this matter. Through Mr. Bailey, the parties commenced settlement negotiations and stipulated to an indefinite continuance of the scheduled hearing of this matter in order to facilitate the settlement negotiations.

STATEMENT OF AGREED FACTS

3. Jacqueline Leventhal, D.O. is licensed by the Board to practice osteopathic medicine in Nevada (License No. 1020).
4. The Complaint alleges as follows:

(a) On April 1, 2014, the Board received a letter from Dr. Leventhal’s former employer, a service that provides physicians to emergency rooms in the Las Vegas metropolitan area. The letter included allegations of erratic behavior and patient abandonment.

(b) The Board’s staff investigated the allegations and found that Dr. Leventhal had failed to report to a regularly scheduled shift and was unreachable by all available means, thus forcing another physician to cover her shift and leaving some of Dr. Leventhal’s patients unseen for as long as 23 hours.

(c) In the course of its investigation, the Board’s staff found indicia that Dr. Leventhal might have experienced mental health and substance abuse issues.

5. As a result of the investigation, the IBM and the Executive Director for the Board were concerned with Dr. Leventhal’s fitness to serve patients in Nevada. Accordingly, on April 16, 2014, the IBM signed an order requiring Dr. Leventhal to participate in a psychiatric examination pursuant to NRS 633.561. The order was served on April 18, 2014.

6. On May 9, 2014, Dr. Leventhal was examined by Dr. Piasecki. On May 31, 2014, Dr. Piasecki issued her report regarding Dr. Leventhal. In her report, Dr. Piasecki determined that Dr. Leventhal had been previously diagnosed with depression and substance abuse (alcohol and benzodiazepines) and recommended that Dr. Leventhal complete a residential assessment and treatment program before resuming duties related to patient care. Dr. Piasecki also recommended long-term aftercare in order for Dr. Leventhal to maintain her license to practice medicine.

7. Based upon all of the above, on June 11, 2014, the IBM and the Board’s Executive Director issued the Order of Summary Suspension of License to Practice Osteopathic Medicine.

8. Additionally, the Board’s investigation revealed that Dr. Leventhal had been arrested on January 1, 2009, on a charge of misdemeanor domestic battery. On November 16, 2009, the domestic battery charge was dismissed pursuant to NRS 174.085. Furthermore, Dr. Leventhal was arrested on July 25, 2013, as a result of a single-car accident in which she was the driver. Subsequently, on October 10, 2013, Dr. Leventhal was charged with; (i) one count of Child Endangerment because her six-year-old son was in the car with her when she had the accident; (ii) one count of Driving Under the Influence
of Alcohol; and (iii) one count of Leaving the Scene of an Accident. Pursuant to a plea agreement, on
February 3, 2014, Dr. Leventhal was convicted of Driving Under the Influence and the other two counts
were dismissed. Dr. Leventhal received the standard sentencing for a first-time Driving Under the
Influence conviction.

9. A check of the Board’s records found that Dr. Leventhal did not report her January 1,
2009 arrest to the Board within 30 days of the arrest, and further, Dr. Leventhal did not report it on her
2010 renewal application. Similarly, Dr. Leventhal did not report her July 25, 2013 arrest to the Board
within 30 days of the arrest and did not report it on her 2014 renewal application. Finally, Dr.
Leventhal did not report her February 3, 2014 conviction to the Board within 30 days.

10. On her own and for her own betterment, Dr. Leventhal began treating with Dr. Michael
Levy in May 2014, to address her depression and substance abuse issues. As of the date of this
Settlement Agreement and Order, Dr. Leventhal continues to treat with Dr. Levy.

11. Based upon the above facts, the parties desire and believe that it is in both their best
interests to resolve this matter without a full hearing on the merits.

APPLICABLE LAW AND UNDERSTANDINGS

12. Dr. Leventhal understands and acknowledges that the conduct as stated in the preceding
eleven paragraphs constitutes violations of the Nevada Revised Statutes (NRS) chapter 633 and the
Nevada Administrative Code (NAC) chapter 633 and that she is subject to disciplinary action by the
Board as a result of that conduct. In particular, the parties agree that Dr. Leventhal’s conduct as stated
in the preceding eleven paragraphs constitutes violations of NRS 633.131(1)(l) (violation of the Board’s
regulations), NRS 633.131(1)(f)(2) (conduct detrimental to the public health, safety or morals), and
NRS 633.131(1)(k) (disobedience of Board’s regulations). Therefore, the Board may impose discipline
pursuant to NRS 633.511(1) (unprofessional conduct), NRS 633.511(5) (professional incompetence),
NRS 633.511(14) (terminating medical care of a patient), NRS 633.511(18) (engaging in an unsafe act),
NRS 633.511(17) (failing to timely report her arrest), and NRS 633.131(1)(a) (providing inaccurate
information on her renewal application).

13. Dr. Leventhal and the IBM agree that it is in the best interests of Dr. Leventhal and the
Board to resolve this matter without a full hearing on the merits.
14. Dr. Leventhal is aware of, understands, and has been advised of the effect of this Settlement Agreement, which she has carefully read and fully acknowledged. Dr. Leventhal acknowledges that she reviewed this Settlement Agreement with and consulted with her legal counsel at Bailey Kennedy, LLP before entering into this Settlement Agreement.

15. Dr. Leventhal has freely and voluntarily entered into the Settlement Agreement, and she is aware of her rights to contest the charges pending against her. These rights include representation by an attorney at her own expense, the right to a public hearing on any charges or allegations formally filed, the right to confront and cross-examine witnesses called to testify against her, the right to present evidence on her own behalf, the right to testify on her own behalf, the right to obtain any other type of formal judicial review of this matter, and any other rights which may be accorded to her pursuant the provisions of Chapters 233B, 622, 622A, and 633 of the NRS and the NAC. Dr. Leventhal is voluntarily waiving all these rights in exchange for the Board’s acceptance of this Settlement Agreement.

16. Should this Settlement Agreement be rejected by the Board, it is agreed that presentation to and consideration by the Board of such proposed Settlement Agreement or other documents or matters pertaining to the consideration of this Settlement Agreement shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration, adjudication, or resolution of these proceedings and that no Board member shall be disqualified or challenged for bias based on the presentation and consideration of the proposed Settlement Agreement.

17. Dr. Leventhal acknowledges that this Settlement Agreement shall only become effective after both the Board and she have duly executed it.

18. Both parties acknowledge that the Board has jurisdiction to consider and ratify this Settlement Agreement and Order because Dr. Leventhal is an osteopathic physician licensed by the Board. Dr. Leventhal expressly, knowingly, and intentionally waives the 21-day notice requirement contained in the Nevada Open Meeting Law and acknowledges that this Settlement Agreement and Order may be presented to the Board for its consideration and potential ratification at the Board’s meeting on October 14, 2014.
19. Pursuant to NRS 622.330, this Settlement Agreement is not a public record and shall be deemed confidential.

AGREED DISCIPLINARY ACTION

THE PARTIES DO HEREBY AGREE as a result of the acknowledgements contained in paragraphs 1 through 19 above, that the following discipline is fair and appropriate and should be imposed by the Board by way of resolution of this matter:

1. Dr. Leventhal shall pay the Board’s fees and costs incurred in the investigation and prosecution of this matter, totaling $8,300.00, by cashier’s or certified check or money order made payable to: “Nevada State Board of Osteopathic Medicine.” Dr. Leventhal may make payment arrangements with the Board’s Executive Director by which payment of the fees and costs can be made over a period of two years from the effective date of this Settlement Agreement and Order.

2. Within ten days of the effective date of this Settlement Agreement and Order, Dr. Leventhal shall arrange for an assessment with Larry Espadero, LADC at Montevista Hospital. Dr. Leventhal shall cooperate with Mr. Espadero’s assessment in all respects, which shall include executing a release and documents as may be required by Mr. Espadero to allow Mr. Espadero to provide the results of his assessment to, and will allow him to discuss them with, the Board’s staff and the IBM.

3. If Mr. Espadero determines that Dr. Leventhal does not have a substance abuse disorder, then Dr. Leventhal need not treat with Mr. Espadero and the suspension of Dr. Leventhal’s license shall terminate.

4. If Mr. Espadero determines that Dr. Leventhal does have a substance abuse disorder, then Dr. Leventhal’s license shall remain suspended and her license shall immediately thereafter be on probation according to the terms and conditions set out hereafter:

    (a) Dr. Leventhal shall enter into a contract with Mr. Espadero setting forth the terms of her participation in a substance abuse treatment program approved by Mr. Espadero, which he deems necessary to address Dr. Leventhal’s disorder and condition. Dr. Leventhal shall comply with the terms of the contract and Mr. Espadero’s reasonable requests related thereto.

    (b) The term of the probation ordered herein shall be determined by her progress and prognosis as determined by Mr. Espadero.
(c) At least quarterly throughout the period of the probation, Mr. Espadero shall provide to the Board’s office a report detailing Dr. Leventhal’s compliance with the terms of her contract, her current status and diagnosis, her prognosis, and any other information Mr. Espadero deems necessary or important to the Board and the IBM in assessing Dr. Leventhal’s competence and fitness to practice osteopathic medicine.

(d) Mr. Espadero shall promptly report to the Board’s office all violations by Dr. Leventhal of her contract and this Settlement Agreement and Order.

(e) When Mr. Espadero has determined that Dr. Leventhal is competent and fit to practice osteopathic medicine, he shall provide a written notice to the Board’s office. Thereafter, the Board’s staff shall schedule Dr. Leventhal and Mr. Espadero to appear at the next regular Board meeting. At the Board meeting, Dr. Leventhal and Mr. Espadero shall appear to answer the Board’s questions and to address the Board’s concerns, if any. If the Board determines that Dr. Leventhal has addressed her issues such that she is competent and fit to practice osteopathic medicine, the Board shall terminate Dr. Leventhal’s suspension upon such terms and conditions as it deems just and necessary at the time, which may include, but is not limited to, potential extension of the probationary term, requiring certain aftercare, requiring certain reporting regarding the aftercare, and other similar terms and conditions.

(f) Dr. Leventhal shall bear all costs associated with the compliance of her substance abuse treatment contract. Failure to pay such costs shall be considered a breach of this Settlement Agreement and Order.

(g) Dr. Leventhal may continue to treat with Dr. Levy throughout the period of the probation as she deems necessary and appropriate. Dr. Leventhal shall ensure that Dr. Levy and Mr. Espadero communicate and share such information and documents and otherwise cooperate as necessary to further the treatment of Dr. Leventhal by both Dr. Levy and Mr. Espadero.

5. Dr. Leventhal shall meet with the Board or its representatives, upon request, and shall cooperate with such representatives in their supervision, monitoring, investigation, or auditing, to assure compliance with the terms and conditions of this Settlement Agreement and Order. Dr. Leventhal shall pay any and all reasonable and necessary costs incurred by the Board resultant from this paragraph.
6. In the event Dr. Leventhal fails to materially comply with any term of this Settlement Agreement and Order, she agrees that her osteopathic physician’s license in the State of Nevada shall be automatically suspended without any action of the Board other than the issuance of an Order of Suspension by the Executive Director. Should there be a dispute over whether Dr. Leventhal has failed to materially comply with any term of this Settlement Agreement and Order, Dr. Leventhal shall be entitled to a hearing before the Board, within 45 days of the issuance of the Order of Suspension, to determine whether continued suspension is warranted. Additionally, Dr. Leventhal’s failure to comply with any term or condition of this Settlement Agreement and Order may result in further discipline by the Board, up to and potentially including revocation of her license. The Board’s staff may take any and all actions it deems necessary to collect any sums ordered that remain unpaid. If the Board’s staff is required to pursue judicial action to effect such collections, it shall be entitled to recover its attorney’s fees and costs incurred in pursuing such judicial action.

Signed this 14 day of October, 2014.

Respondent Jacqueline Leventhal

By

Jacqueline Leventhal, D.O.
Respondent

By

John R. Bailey, Esq.
Kelly B. Stout, Esq.
Bailey & Kennedy
8984 Spanish Ridge Ave.
Las Vegas, Nevada 89148

Nevada State Board of Osteopathic Medicine

By

Samir Pancholi, D.O.
Investigating Board Member

By

General Counsel for the Nevada State Board of Osteopathic Medicine
6. In the event Dr. Leventhal fails to materially comply with any term of this Settlement Agreement and Order, she agrees that her osteopathic physician’s license in the State of Nevada shall be automatically suspended without any action of the Board other than the issuance of an Order of Suspension by the Executive Director. Should there be a dispute over whether Dr. Leventhal has failed to materially comply with any term of this Settlement Agreement and Order, Dr. Leventhal shall be entitled to a hearing before the Board, within 45 days of the issuance of the Order of Suspension, to determine whether continued suspension is warranted. Additionally, Dr. Leventhal’s failure to comply with any term or condition of this Settlement Agreement and Order may result in further discipline by the Board, up to and potentially including revocation of her license. The Board’s staff may take any and all actions it deems necessary to collect any sums ordered that remain unpaid. If the Board’s staff is required to pursue judicial action to effect such collections, it shall be entitled to recover its attorney’s fees and costs incurred in pursuing such judicial action.

Signed this 14th day of October, 2014.

Respondent Jacqueline Leventhal

By Jacqueline Leventhal, D.O.
Respondent

Nevada State Board of Osteopathic Medicine

By Samir Pancholi, D.O.
Investigating Board Member

By General Counsel for the Nevada State Board of Osteopathic Medicine

John R. Bailey, Esq.
Kelly B. Stout, Esq.
Bailey & Kennedy
8984 Spanish Ridge Ave.
Las Vegas, Nevada 89148
ORDER

WHEREAS, on October 14, 2014, the Nevada State Board of Osteopathic Medicine approved and adopted the terms and conditions set forth in the Agreed Settlement and Order with Jacqueline Leventhal, D.O.

IT IS SO ORDERED.

SIGNED AND EFFECTIVE this 14th day of October, 2014.

NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

[Signature]

Ronald Hedger, D.O.
President
BEFORE THE NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

IN THE MATTER OF THE COMPLAINT

AGAINST

JACQUELINE LEVENTHAL, D.O.,
License No. 1020,

RESPONDENT.

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of October, 2014, I served a copy of the ABOVE Notice with attachment upon the parties to this matter, via E-Mail, addressed as follows:

JBailey@baileykennedy.com
Attorney for Respondent

[Signature]
An employee of the Nevada State Board of Osteopathic Medicine