BEFORE THE NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

IN THE MATTER OF:

DAVID ADAMS, D.O.,
License No. 1074,
Respondent.

Case No. AD2006001
SETTLEMENT AGREEMENT AND ORDER

The Nevada State Board of Osteopathic Medicine (the Board), by and through its investigating board member Ricardo Almaguer, D.O. (hereinafter “IBM”) and its counsel Louis Ling hereby enters into this settlement agreement with David Adams, D.O. (License No. 1074), represented by John Hunt of the law firm of Clark Hill. 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 fully and finally settled and resolved upon terms and conditions set out herein.

PERTINENT FACTS

1. David Adams, D.O. is licensed by the Board to practice osteopathic medicine in Nevada (License No. 1074). Dr. Adams is board certified in anesthesiology.

2. At its regular meeting on April 10, 2018, the Board approved a Settlement Agreement and Order regarding Dr. Adams (Case No. AD1706001). The facts underlying that Settlement Agreement and Order related to Dr. Adams’ controlled substances prescribing and recordkeeping practices at Las Vegas Pain and Wellness Center. Relevant to the instant matter, as a condition of a two-year probationary term, Dr. Adams agreed that he would confine his future practice of medicine to anesthesia practiced in medical facilities licensed per NRS chapter 449. The probation expired on April 10, 2020.

3. In the course of its monitoring of Dr. Adams’ practice pursuant to the Settlement Agreement and Order, Board staff was able to determine that Dr. Adams satisfied all of the terms of his probation and confined his practice to anesthesia in licensed medical facilities.

4. On February 12, 2020 – at a time when Dr. Adams was still on probation with the Board – the Board received a complaint from the Nevada State Board of Pharmacy regarding information it had
received from one of the hospitals at which Dr. Adams practiced anesthesia, namely Desert Springs
Hospital in Las Vegas, Nevada. The Board initiated an investigation of the complaint from the Nevada
State Board of Pharmacy.

4. In the course of the investigation, Board staff obtained the results of an audit by the
pharmacy department at Desert Springs Hospital of procedures in which Dr. Adams was the
anesthesiologist in September, October, November, and December 2019. The audit found that the
records made and maintained at Desert Springs Hospital showed discrepancies of two controlled
substances, namely Midazolam and Fentanyl, between what Dr. Adams removed from the hospital’s
Pyxis devices and what his anesthesia logs show he used in the procedures during the period covered by
the audit.

5. On June 17, 2020, Dena McLish, an investigator for the Pharmacy Board, sent a letter to Dr.
Adams seeking certain information in furtherance of her investigation based upon the audit.

6. On June 19, 2020, Board staff served a subpoena duces tecum upon Desert Springs Hospital
seeking records related to the audit conducted by the hospital’s pharmacy department.

7. On July 10, 2020, Dr. Adams, through his counsel Mr. John Hunt of Clark Hill, sent a
detailed letter to Ms. McLish in response to her letter of June 17, 2020. Attached to the letter were a
considerable number of documents as exhibits, including copies of anesthesia logs for each of the
patients in which the discrepancies were noted. On all but one of these anesthesia logs, Dr. Adams had
handwritten notations that, if true, reconciled the discrepancies noted in the audit.

8. On July 14, 2020, Board staff received from Desert Springs Hospital documents in response
to its subpoena duces tecum. Among the documents received from Desert Springs Hospital were the
same anesthesia logs that Dr. Adams had included in his July 10, 2020 letter to Ms. McLish, except that
the anesthesia logs maintained in Desert Springs Hospital’s medical files did not contain the
handwritten notations that were on the set of anesthesia logs that Dr. Adams presented to the Pharmacy
Board.

9. Throughout the investigation of both the Pharmacy Board’s matter and Board staff’s
investigation in this matter, Dr. Adams has maintained that his anesthesia logs do not evidence any
wastage of any of the controlled substances he removed from the Pyxis devices at Desert Springs
Hospital because he knows from experience how much of each controlled substance he will use in a particular procedure, so he uses 100% of all controlled substances he obtains from the Pyxis device in his procedures.

ACKNOWLEDGMENTS AND APPLICABLE LAW

This Settlement Agreement and Order is made and based upon the following acknowledgments by the parties:

1. Dr. Adams is aware of, understands, and has been advised of the effect of this Settlement Agreement and Order, which he has carefully read and fully acknowledged. Dr. Adams consulted with and was represented by competent counsel of his choice, namely John Hunt of the law firm of Clark Hill.

2. Dr. Adams has entered into the Settlement Agreement and Order, and he is aware of his rights to contest the charges pending against him. These rights include representation by an attorney at his 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 him, the right to present evidence on his own behalf, the right to testify on his 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 him pursuant the provisions of Chapters 233B, 622, 622A, and 633 of the NRS and the NAC. Dr. Adams is waiving all these rights in exchange for the Board’s acceptance of this Settlement Agreement and Order.

3. Should the Settlement Agreement and Order be rejected by the Board, it is agreed that presentation to and consideration by the Board of such proposed Settlement Agreement and Order or other documents or matters pertaining to the consideration of this Settlement Agreement and Order 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.

4. Dr. Adams and the Board acknowledge that NRS 633.691 provides immunity for the Board, its employees, and its retained specialists from any potential action that might be brought by Dr. Adams and that for the purposes of NRS 633.691, Dr. Adams acknowledges that the Board, its employees, and its retained specialists have acted in good faith throughout the conduct of this matter. Dr. Adams and
the Board further acknowledge that NRS 633.691 provides osteopathic physicians such as Dr. Adams with certain protections against administrative actions by the Board, which protections are inapplicable in this matter.

5. Dr. Adams acknowledges that the Settlement Agreement and Order shall only become effective after both the Board and he have duly executed it.

6. Dr. Adams enters into this Settlement Agreement and Order after being fully advised of his rights and as to the consequences of this Settlement Agreement and Order. This Settlement Agreement and Order embodies the entire agreement reached between the Board and Dr. Adams. It may not be altered, amended, or modified without the express consent of the parties.

7. In an effort to avoid the cost and uncertainty of a hearing, the parties have agreed to settle this matter. In settling this matter, Dr. Adams admits that the facts contained in the “Pertinent Facts” section constitute violations of NRS 633.131(1)(m) and NRS 633.511(1)(a) and NAC 633.350(1)(c). If the Board approves this Settlement Agreement and Order, it shall be deemed and considered disciplinary action by the Board against Dr. Adams.

8. Both parties acknowledge that it is in the best interests of each to resolve this matter without a full hearing on the merits because of the cost and risk involved for each party.

9. Both parties acknowledge that the Board has jurisdiction to consider and ratify this settlement agreement and order because Dr. Adams is an osteopathic physician licensed by the Board. Dr. Adams 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 March 9, 2020.

**STIPULATED ADJUDICATION**

Based upon the above acknowledgments of the parties and their mutual agreement, the parties stipulate and agree that the following terms of discipline should be imposed by the Board in this matter:

1. Dr. Adams shall pay the sum of $2,700.00 as payment of the Board’s actual costs for the investigation and prosecution of this matter and shall pay the sum of $2,500.00 as a fine pursuant to NRS 633.651(1)(f). Dr. Adams shall pay the costs amount and fine amount within sixty (60) days of
the effective date of this Settlement Agreement and Order unless he and the Board’s Executive Director agree otherwise.

2. As requested, Dr. Adams has sent correspondence to Desert Springs Hospital requesting that it enter in its anesthesia logs the handwritten notations Dr. Adams made to said anesthesia logs which accompanied his July 10, 2020, letter to the Pharmacy Board.

3. Should the Board’s receive credible information from any of medical facilities at which Dr. Adams is performing anesthesia that he has made recordkeeping errors which occurred subsequent to the effective date of this Settlement Agreement and Order which are similar to those noted in the instant case, the Board may take additional disciplinary action against Dr. Adams that may include a suspension or revocation of his license.

4. All terms still in effect from the Settlement Agreement and Order of April 10, 2018 shall remain in force and effect.

5. Dr. Adams shall meet with the Board or its representatives upon reasonable request and shall reasonably cooperate with such representatives in their supervision, monitoring, investigation, or auditing to assure compliance with the terms and conditions of this order.

6. Dr. Adams’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 his 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 affect such collections, it shall be entitled to recover its attorney’s fees and costs incurred in pursuing such judicial action.

Signed this 2 day of March, 2021.

Respondent David Adams, D.O.

By
David Adams, D.O., Respondent

By
Ricardo Almaguer, D.O.
Investigating Board Member
ORDER

WHEREAS, on March 9, 2021, the Nevada State Board of Osteopathic Medicine approved and adopted the terms and conditions set forth in the Settlement Agreement and Order with David Adams, D.O. IT IS SO ORDERED.

SIGNED AND EFFECTIVE this 9th day of March, 2021.

NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

[Signature]

Ronald Hedger, D.O., President and Presiding Officer
Sent from my iPhone
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RESPONDENT. 

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CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of March, 2021, I served a copy of the ABOVE Notice with attachment upon the parties to this matter, via U.S. Postal Service, postage thereon prepaid, at their last known address on file with this Board.

David Adams, D.O.

An employee of the Nevada State Board of Osteopathic Medicine