

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

2 IN THE MATTER OF THE COMPLAINT

3 AGAINST

4 JOSE L. GOCHOCO, D.O., LIC. #813,

5 RESPONDENT.

Case No. ~~NVSTATE BOARD OF~~
OSTEOPATHIC MEDICINE

Filed: JAN 06 2010

Executive Director **FILED**

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") through the Board's Counsel/Executive Director, Dianna Hegeduis, Esq., and Jose
13 Gochoco, D.O. ("Dr. Gochoco") (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 the Investigative Board Member, ascertained certain
18 information regarding a prior lawsuit filed against Dr. Gochoco. The information was
19 ascertained as a result of the Board's staff due diligence in investigating its
20 applicants/licenseses as well as from information received directly from Dr. Gochoco.
- 21 B. WHEREAS, the Investigative Board Member alleged that Dr. Gochoco failed to timely
22 report the settlement of the lawsuit filed against him regarding a patient with the initials
23 of "B.W." and such a failure is a violation of NRS 633.527. Additionally, Dr. Gochoco
24 failed to report the resolution of the lawsuit when renewing his license for the calendar
25 year 2008, and failed to report the investigation by the licensing board for Colorado
26 state concerning that lawsuit in his 2009 renewal application.
- 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

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

- 7
- 8 D. NRS 633.131(1) defines "unprofessional conduct" as including "willfully making a false
9 . . . statement . . . in applying for a license to practice osteopathic medicine or in
10 applying for renewal of a license to practice osteopathic medicine." Pursuant to NRS
11 633.511(1), "unprofessional conduct" is a ground for initiating a formal disciplinary
12 proceeding; and pursuant to NRS 633.651, such discipline may include a fine, public
13 reprimand, the suspension of the license to practice osteopathic medicine in the State
14 of Nevada, and even the revocation of the license to practice osteopathic medicine in
15 the State of Nevada.
- 16 E. NRS 622.400(1) states that a "regulatory body [such as this Board] may recover from a
17 person reasonable attorney's fees and costs that are incurred by the regulatory body as
18 part of its investigative, administrative and disciplinary proceedings against the person
19 if the regulatory body" either enters a final order or enters into a settlement agreement.
- 20 F. WHEREAS, the parties have agreed to informally settle this matter, rather than
21 requiring the Board to file a formal disciplinary complaint.
- 22 G. WHEREAS, the parties understand that this Agreement will be signed by the respective
23 parties and will then be offered to the Board for the entire Board's approval at the next
24 Board meeting, with the recommendation of the Investigating Board Member that this
25 matter be settled. The Agreement shall not become effective until it has been
26 approved by a majority of the Board and endorsed by a representative member of the
27 Board.
- 28 H. WHEREAS, Dr. Gochoco 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. Gochoco
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. Gochoco 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. Gochoco 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. Gochoco has elected to enter into this
Agreement to resolve this matter, and only the matters identified herein.
- L. WHEREAS, Dr. Gochoco 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. Gochoco has had the opportunity to obtain the advice from competent
counsel of his choice concerning the terms and conditions of this Agreement and the

1 execution thereof. No coercion has been exerted upon Dr. Gochoco, nor have any
2 promises been made other than those reflected in this Agreement. Dr. Gochoco freely
3 and voluntarily entered into this agreement, motivated only by a desire to resolve the
4 issues addressed herein. Dr. Gochoco has executed this Agreement only after a
5 careful reading of it and a full understanding of all its terms.

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

22 III. TERMS OF THE AGREEMENT

- 23 A. Dr. Gochoco acknowledges that the failure to timely report allegation is true with
24 respect to the lawsuit filed by patient "B.W." and such a failure to timely report is a
25 violation of NRS chapter 633 and discipline is permissible under Nevada law. In
26 exchange for the Board not pursuing an administrative action against Dr. Gochoco
27 for the alleged inaccurate information contained within the renewal application and
28 the untimely reporting, and Dr. Gochoco not pursuing subsequent reviews by the
appropriate appellate Courts, the parties have agreed to resolve the current matter,
and only this matter. Dr. Gochoco will henceforth insure that all lawsuits involving
him will be timely and accurately reported to the Board, and the failure to do so may
result in the Board bringing a disciplinary action against the osteopathic medical
license issued by the Board to Dr. Gochoco. If any lawsuit is not reported to the
Board, such will be in violation of this agreement as well as the applicable statutes.
**ADDITIONALLY, THE BOARD ACKNOWLEDGES, AND THE PARTIES DO
HEREBY AGREE, THAT A DISCIPLINARY ACTION WILL NOT AND HAS NOT
BEEN FILED BY THE BOARD; AND THAT THE PARTIES HAVE SIMPLY
AGREED TO AN ADMINISTRATIVE FINE BEING ASSESSED FOR THE NON-
REPORTING VIOLATION, I.E., NOT FOR ANY ALLEGATIONS REGARDING
UNPROFESSIONAL CONDUCT AND/OR REGARDING THE PHYSICIAN'S
COMPETENCY.**
- B. Dr. Gochoco agrees to pay the sum of One Thousand, Two Hundred, Fifty Hundred
Dollars (\$1,250.00) as the fine imposed for having violated NRS 633.527(1) for the
failure to timely report the lawsuit. 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 _____, 20____, and such amount shall continue to be due thereafter

on the ____ day of each month, until the full amount of One Thousand, Two Hundred, Fifty Hundred Dollars is paid.

- C. Should Dr. Gochoco fail to satisfy and pay the indebtedness of \$1,250.00 in a timely manner as discussed herein, Dr. Gochoco understands and agrees that he will be considered in default of this Agreement, and this agreement will be null and void, with the Respondent receiving credit for payments made to date. The Board may take whatever action it deems appropriate, including but not limited to reducing the balance to judgment pursuant to NRS chapter 353C.
- D. The Respondent, Dr. Gochoco, agrees to bear his own fees and costs, including the fees and expenses of his own attorney(s) if applicable.
- E. This Agreement and Order shall inure to the benefit of and be binding upon each of the parties hereto and their respective heirs, personal representatives, assigns and successors in interest of each party.
- F. This Agreement and Order shall be construed in accordance with the laws of the State of Nevada.
- G. This settlement agreement consists of six (6) pages and embodies the entire agreement between the Board and the osteopathic physician. It may not be altered, amended or modified without the express consent of the parties, and any subsequent alteration, amendment, or modification shall be in writing and subject to approval by the Board.
- H. In consideration for the execution of this Agreement, Dr. Gochoco hereby releases and forever discharges the State of Nevada, the Board of Osteopathic Medicine, and the Nevada State Attorney General's Office (as counsel for the Board), and each of their representatives, investigators, and employees, in their individual and representative capacity (collectively the State of Nevada Agencies) from any and all manner of actions, causes of actions, suits, debts, judgments, executions, claims, and demands whatsoever known or unknown, in law and in equity, that he may have had, now has, may have had, or claim to have against any and all of the persons and entities named in this paragraph arising out of, or by reason of, the investigation of the allegations raised in this matter, and other matters relating thereto.
- I. Dr. Gochoco, 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 settlement, or its administration.
- J. This document may be prepared in multiple counterparts. Each counterpart, whether it be originally typed, a carbon, photocopy, facsimile or other type of copy, shall be deemed an original hereof if executed by each of the Parties hereto.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

....
....
....

1 K. **LASTLY**, by executing this agreement, Respondent Physician hereby expressly,
2 knowingly, and intentionally waive the 21-working days notice requirement pursuant
3 to Nevada's Open Meeting Laws and acknowledges that this Agreement shall be on
4 the agenda for the Board's approval in the month of JANUARY, 2006.

5 JOSE GOCHOCO, D.O.

6 
7 _____
8 Osteopathic Physician

9 Dated: 12-2-2009

10 NEVADA STATE BOARD OF
11 OSTEOPATHIC MEDICINE

12 BY: _____

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

15 Dated: _____

16 NEVADA STATE BOARD OF
17 OSTEOPATHIC MEDICINE

18 By  _____

19 Dianna Hegeduis, Executive Director -
20 Board Counsel

21 Dated: 12-3-09

22 **ACKNOWLEDGEMENT**

23 On this the 2nd day of December, 2009, the said JOSEPH GOCHOCO,
24 D.O., personally appeared before me, a notary public, and signed the above document, freely
25 and voluntarily, and under no duress.



27 
28 _____
Notary Public

ORDER OF THE BOARD

IT IS SO ORDERED.

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

1 K. **LASTLY**, by executing this agreement, Respondent Physician hereby expressly,
2 knowingly, and intentionally waive the 21-working days notice requirement pursuant
3 to Nevada's Open Meeting Laws and acknowledges that this Agreement shall be on
4 the agenda for the Board's approval in the month of _____, 20__.

5 JOSE GOCHOCO, D.O.

6 _____
7 Osteopathic Physician

8 Dated: _____

9 NEVADA STATE BOARD OF
10 OSTEOPATHIC MEDICINE

11 BY: Rota Rosaschi
12 Rota Rosaschi, M.P.A.
13 Investigating Board Member

14 Dated: 12/29/09

15 NEVADA STATE BOARD OF
16 OSTEOPATHIC MEDICINE

17 By Dianna Hegeduis
18 Dianna Hegeduis, Executive Director -
19 Board Counsel

20 Dated: _____

21 **ACKNOWLEDGEMENT**

22 On this the _____ day of _____, 20__, the said JOSEPH GOCHOCO,
23 D.O., personally appeared before me, a notary public, and signed the above document, freely
24 and voluntarily, and under no duress.

25 _____
26 Notary Public

27 **ORDER OF THE BOARD**

28 **IT IS SO ORDERED.**

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

1 Should this Agreement become null and void by Dr. Gochoco's failure to comply with terms or
2 conditions of this Agreement, the Board may not only pursue an administrative action against
3 Dr. Gochoco, but the Board may also seek the maximum fees, fines, and costs.

4 DATED this 5 day of January, 2010.

5 NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

6
7 BY: 

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