

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA

STATE OF NEBRASKA ex rel.,
JON BRUNING, Attorney General,

Plaintiff,

vs.

JAMES MURPHY, D.O.,

Defendant.

11-2879

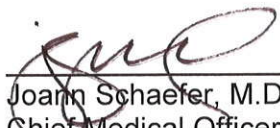
ORDER ON
AGREED SETTLEMENT

A proposed Agreed Settlement was filed with the Department on October 4, 2011.

ORDER

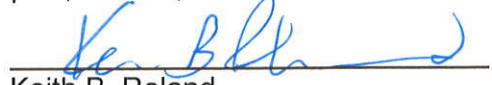
1. The Agreed Settlement is adopted, attached hereto and incorporated by reference.
2. The facts as set out in the petition are taken as true and adopted herein.
3. The parties shall comply with all of the terms of the Agreed Settlement.
4. The civil penalty payment(s) shall be mailed to DHHS Division of Public Health, Licensure Unit, ATTN: Diane Pearson, 301 Centennial Mall South, P.O. Box 94986, Lincoln NE 68509.

DATED this 12 day of October, 2011.


Joann Schaefer, M.D.
Chief Medical Officer
Director, Division of Public Health
Department of Health and Human Services

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 13th day of October, 2011 a copy of the foregoing **ORDER ON AGREED SETTLEMENT** was sent by United States certified mail, postage prepaid, return receipt requested, to **Dr. James Murphy, Cornerstone Progressive Health, 8031 W. Center Road, Suite 221, Omaha, NE 68124** and by interoffice mail to **Susan M. Ugai, Assistant Attorney General, 2115 State Capitol, Lincoln, Nebraska.**


Keith B. Roland
DHHS Legal Services
P.O. Box 98914
Lincoln NE 68509-8914
P. (402) 471-7237 F. (402)742-2376

ES

FILED

OCT -4 2011

DHHS
Legal and Regulatory Services

AGREED SETTLEMENT

4. No coercion, threats, or promises, other than those stated herein, were made to the Defendant to induce him to enter into this Agreed Settlement.

5. The Defendant acknowledges that he has read the Petition for Disciplinary Action filed by the Attorney General's Office. The Defendant admits the allegations of the Petition for Disciplinary Action.

6. The Defendant and the Plaintiff agree that the Chief Medical Officer enter a final disciplinary order finding the allegations of the Petition for Disciplinary Action are true.

7. The Plaintiff and the Defendant consent to the Director entering a disciplinary order which censures Defendant's medical license and imposes a civil penalty in the amount of Five Thousand Dollars (\$5,000.00).

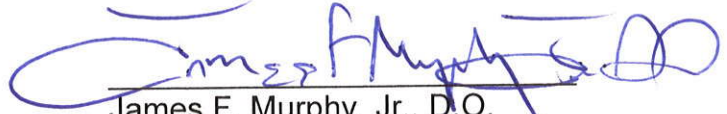
8. The civil penalty shall be payable in full within six (6) months from the date the Chief Medical Officer enters a disciplinary order in accordance with this Agreed Settlement. In the event the Defendant fails to pay the civil penalty in full by the stated deadline, the Chief Medical Officer may summarily suspend the Defendant's license, which suspension shall remain in effect until the civil penalty is paid in full.

9. Within six (6) months of the date of this Agreed Settlement, Defendant will enroll in and successfully complete a Board pre-approved ethics course, with the entire cost of and all expenses related to such course paid by Defendant. Defendant shall provide written verification of successful completion of such course of instruction to the Department.

10. The Attorney General's Office has given notice of this Agreed Settlement to the Board of Medicine and Surgery and has received their input in accordance with NEB. REV. STAT. § 38-190 (Reissue 2008).

11. If this Agreed Settlement is not approved by the Chief Medical Officer, this Agreed Settlement shall become null and void and will not be admissible for any purpose at any hearing.

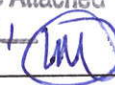
AGREED TO:


James F. Murphy, Jr., D.O.
Defendant

State of ~~Nebraska~~ ^{California})
County of ~~San Diego~~) ss.

Acknowledged before me by James F. Murphy, Jr., D.O., on this 30th day of September, 2011.

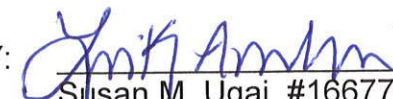
Notarial Certificate Attached

Date 9/30/11 

Notary Public

STATE OF NEBRASKA, ex rel. JON
BRUNING, Attorney General,
Plaintiff,

BY: JON BRUNING, #20351
Attorney General

BY:  #21845 for:
Susan M. Ugai, #16677
Assistant Attorney General
2115 State Capitol
Lincoln, Nebraska 68509
(402) 471-9658

Attorneys for Plaintiff.

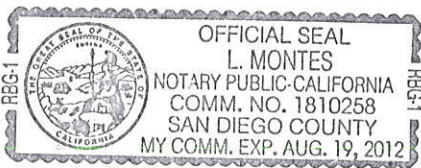
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Diego

On Sept. 30th, 2011 before me, L. Montes Notary

personally appeared James F. Murphy, Jr.



who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: [Signature]

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Agreed Settlement

Document Date: 9/30/2011 Number of Pages: 2

Signer(s) Other Than Named Above: N/A

Capacity(ies) Claimed by Signer(s)

Signer's Name: James F. Murphy, Jr.

☐ Corporate Officer — Title(s): _____

☒ Individual

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

Signer's Name: _____

☐ Corporate Officer — Title(s): _____

☐ Individual

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
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THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA



STATE OF NEBRASKA, ex rel. JON
BRUNING, Attorney General,

Plaintiff,

vs.

JAMES F. MURPHY, JR., D.O.,

Defendant.

PETITION FOR DISCIPLINARY
ACTION

The Plaintiff alleges as follows:

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

1. Jurisdiction is based on NEB. REV. STAT. §§ 38-183, 38-184, and 38-186 (Reissue 2008).
2. At all times relevant herein, the Defendant, James F. Murphy, Jr., D.O., has been the holder of license # 241 which was issued by the Nebraska Department of Health and Human Services Division of Public Health ("Department") for his practice as a physician.
3. The Department is the agency of the State of Nebraska authorized to enforce the laws of Nebraska regulating the practice of medicine.
4. The Nebraska Board of Medicine and Surgery considered the investigation of this matter and made its recommendation to the Attorney General, which recommendation has been considered. Such matters are privileged pursuant to NEB. REV. STAT. §§ 38-1,105 and 38-1,106 (Reissue 2008).

5. On April 16, 2009, Defendant was convicted in the United States District Court for the Southern District of California, (Case No. 08CR1196-W) of eight federal felonies.

6. Defendant was convicted of six counts of False Statement to a Federal officer, Attempted Entry into Secure Area of Airport, and Unauthorized Transfer or Receipt of Counterfeit Insignia. These convictions are violations of 18 U.S.C. §§ 1001(a)(2) & (a)(3); 18 U.S.C. § 1036(a)(4) & (b)(2); and 18 U.S.C. § 716(a)(1).

7. Defendant was sentenced to time served with the Federal Bureau of Prisons on all eight counts. Defendant was placed on supervised release for three years on six counts, all terms to be served concurrently. The supervised release included a three month term with the Home Confinement Program.

FIRST CAUSE OF ACTION

8. Paragraphs 1 through 7 are incorporated herein by reference.

9. NEB. REV. STAT. § 38-179 (Reissue 2008) defines unprofessional conduct as any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or occupation or the ethics of the profession or occupation regardless of whether a person, patient or entity is injured, or conduct that is likely to deceive or defraud the public or is detrimental to the public interest

10. Defendant's conduct constitutes unprofessional conduct and is grounds for discipline.

SECOND CAUSE OF ACTION

11. Paragraphs 1 through 10 are incorporated herein by reference.

12. NEB. REV. STAT. §§ 38-178(5) (Reissue 2008) and 71-147(4) (2006 Cum. Supp.) provide that a professional license may be disciplined for conviction of a misdemeanor or felony under Nebraska law or federal law, which has a rational connection with the fitness or capacity of the applicant or credential holder to practice the profession.

13. Defendant's federal felony convictions are grounds for discipline.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that the Chief Medical Officer set this matter for hearing, order appropriate disciplinary action pursuant to NEB. REV. STAT. § 38-183 (Reissue 2008) and tax the costs of this action to the Defendant.

STATE OF NEBRASKA ex rel. JON BRUNING,
Attorney General,
Plaintiff,

BY: JON BRUNING, #20351
Attorney General

BY:


Susan M. Ugai, #16677
Assistant Attorney General
2115 State Capitol
Lincoln, NE 68509
(402) 471-2682

Attorneys for the Plaintiff.