

1                   **BEFORE THE NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE**  
2 **IN THE MATTER OF THE COMPLAINT**  
3 **AGAINST KEVIN A. BROWN, D.O.**  
4 License No. 1016  
5                   **RESPONDENT.**

Case No.: MA1002012

Filed: **NV STATE BOARD OF  
OSTEOPATHIC MEDICINE**

APR 07 2010

**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 Daniel K. Curtis, D.O., Investigative Board Member ("Dr. Curtis" or "IBM") for the  
11 Nevada State Board of Osteopathic Medicine ("the Board") through the Board's Executive  
12 Director/Board Counsel, Dianna Hegeduis, Esq., and Kevin A. Brown, D.O. ("Dr. Brown")  
13 (collectively referred to as "the Parties").  
14

15                   **II. RECITALS**

16                   As a preamble to this Agreement, the Parties agree to the following:

- 17                   A. WHEREAS, the Board, through the IBM, ascertained certain information regarding  
18 litigation filed against Dr. Brown. The information was ascertained as a result of the  
19 Board's staff due diligence in investigating its applicants/licensees.  
20                   B. WHEREAS, the IBM has alleged as follows: Re: patient "CS." A lawsuit was filed and  
21 eventually dismissed on or about January 2005; and the Board was not notified within  
22 45 days thereafter. The IBM has alleged such failure is a violation of NRS chapter 633  
23 as discussed hereinafter.  
24                   C. NRS 633.527(1) states that a licensed "osteopathic physician **shall report** to the  
25 Board: (a) any action for malpractice against the osteopathic physician not later than 45  
26 days after the osteopathic physician receives service of a summons and complaint for  
27 the action; (b) any claim for malpractice against the osteopathic physician that is  
28 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 any provision of  
this section, **the Board may impose a fine of not more than \$5,000** against the  
osteopathic physician **for each violation, in addition to any other fines or penalties  
permitted by law.**" (Emphasis added.) This statute was added to the law in 2003. By

- 1 the use of the word "shall" by the Nevada State Legislature in this statute, the  
2 Legislature intended to mandatorily require all osteopathic physicians to report any of  
3 the four (4) events mentioned in the statute.
- 4 D. NRS 622.400(1) states that a "regulatory body [such as this Board] may recover from a  
5 person reasonable attorney's fees and costs that are incurred by the regulatory body as  
6 part of its investigative, administrative and disciplinary proceedings against the person  
7 if the regulatory body" either enters a final order or enters into a settlement agreement.
- 8 E. WHEREAS, the parties have agreed to settle this matter, rather than requiring the  
9 Board to file a formal disciplinary complaint.
- 10 F. WHEREAS, the parties understand that this Agreement will be signed by the respective  
11 parties and will then be offered to the Board for the entire Board's approval at the next  
12 Board meeting, with the recommendation of the Investigating Board Member that this  
13 matter be settled. The Agreement shall not become effective until it has been  
14 approved by a majority of the Board and endorsed by a representative member of the  
15 Board.
- 16 G. WHEREAS, Dr. Brown understands that the Board is free to accept or reject this  
17 Agreement and, if rejected by the Board, a formal disciplinary complaint may be filed  
18 and a hearing scheduled on the same. The Board members who review this matter for  
19 approval of this Agreement may be the same members who ultimately hear the  
20 disciplinary complaint if this Agreement is not approved by the Board. Dr. Brown hereby  
21 agrees to waive any rights he might have to challenge the impartiality of the Board to  
22 hear the disciplinary complaint, based on prior knowledge obtained by the Board  
23 through consideration of this Agreement, if after review by the Board, this Agreement is  
24 rejected. Furthermore, if the Board does not accept the Agreement, it shall be regarded  
25 as null and void.
- 26 H. WHEREAS, Dr. Brown acknowledges that the Board will retain jurisdiction over this  
27 matter until all terms and conditions set forth in this Agreement and Order have been  
28 met to the satisfaction of the Board.
- I. WHEREAS, Dr. Brown 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.
- J. WHEREAS, in order to resolve the matter prior to it becoming a disciplinary proceeding  
and to save further costs and expenses, Dr. Brown has elected to enter into this  
Agreement to resolve this matter, and this matter only.
- K. WHEREAS, Dr. Brown 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).
- L. WHEREAS, Dr. Brown has had the opportunity to obtain the advice from competent  
counsel of his choice concerning the terms and conditions of this Agreement and the  
execution thereof. No coercion has been exerted upon Dr. Brown, nor have any  
promises been made other than those reflected in this Agreement. Dr. Brown freely and  
voluntarily entered into this agreement, motivated only by a desire to resolve the issues  
addressed herein. Dr. Brown has executed this Agreement only after a careful reading  
of it and a full understanding of all its terms.
- M. WHEREAS, Dr. Brown is fully 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 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 compulsory process to secure the attendance of such  
witnesses, the right to testify on his own behalf, the right to receive written findings of

1 fact and conclusions of law supporting the decision on the merits of the complaint and  
2 the right to obtain judicial review of the Board's decision. Should the Board accept this  
3 Agreement, Dr. Brown voluntarily waives these rights.

4 N. WHEREAS, this Agreement and Order shall be construed in accordance with the laws  
5 of the State of Nevada.

6 O. WHEREAS, this Agreement and Order contains a complete description of the  
7 agreement between the parties and it supersedes any previous agreements between  
8 the parties. All material representations, understandings and promises of the parties  
9 are contained in this Agreement. Any modifications must be set forth in writing, signed  
10 by all the parties, and approved by the Board.

### 11 **III. TERMS OF THE AGREEMENT**

12 A. Dr. Brown acknowledges that the failure to report allegation is true, and such act  
13 (failure to timely report) is a violation of NRS chapter 633 for which discipline is  
14 permissible under Nevada law. In exchange for the Board not pursuing an  
15 administrative action on the non-reporting allegations, and Dr. Brown not pursuing  
16 subsequent reviews by the appropriate appellate Courts, the parties have agreed to  
17 resolve the current matter, and only this matter. Dr. Brown will henceforth insure  
18 that all lawsuits involving him will be timely and accurately reported to the Board,  
19 and the failure to do so may result in the Board bringing a disciplinary action against  
20 the osteopathic medical license issued by the Board to Dr. Brown. If any lawsuit is  
21 not reported to the Board, such will be in violation of this agreement as well as the  
22 applicable statutes. **ADDITIONALLY, THE BOARD ACKNOWLEDGES, AND  
23 THE PARTIES DO HEREBY AGREE, THAT A DISCIPLINARY ACTION WILL  
24 NOT AND HAS NOT BEEN FILED BY THE BOARD; AND THAT THE PARTIES  
25 HAVE SIMPLY AGREED TO AN ADMINISTRATIVE FINE BEING ASSESSED  
26 SOLELY FOR THE NON-REPORTING VIOLATION.**

27 B. Dr. Brown agrees to pay the sum of Five Hundred Dollars (\$500.00) as the fine  
28 imposed for having violated NRS 633.527(1) for the failure to timely report the  
settlement of 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 monthly installments of \$ 100.00 each with the first payment  
being due on the 26 day of April 2010, 2010, and a like payment  
being due on the 26 day of each month thereafter until said amount is paid in  
full.

C. Should Dr. Brown fail to satisfy and pay the indebtedness of \$500.00 in a timely  
manner as discussed herein, Dr. Brown 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. Brown, 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 five (5) 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. Brown 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. Brown, 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.
- K. LASTLY, by executing this agreement, Respondent hereby expressly, knowingly, and intentionally waive the 21-working days notice requirement pursuant to Nevada's Open Meeting Laws and acknowledges that this Agreement shall be on the Board's agenda for approval in the month of April, 2010.

KEVIN A. BROWN, D.O.

By: *Kevin A. Brown*  
Osteopathic Physician

Dated: 3/15/10

NEVADA STATE BOARD OF  
OSTEOPATHIC MEDICINE  
BY: *Daniel K. Curtis*  
Daniel K. Curtis, D.O.  
Investigating Board Member

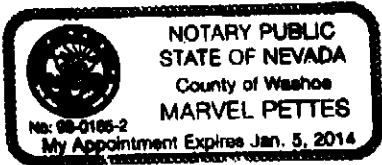
NEVADA STATE BOARD OF  
OSTEOPATHIC MEDICINE  
By: *Dianna Hegeduis*  
Dianna Hegeduis, Executive Director -  
Board Counsel

Dated: 3-25-10

Dated: 3-25-2010

**ACKNOWLEDGEMENT**

On this the 15<sup>th</sup> day of MARCH, 2010, the said KEVIN A. BROWN, D.O., personally appeared before me, a notary public, and signed the above document, freely and voluntarily, under no duress.



Marvel Pettes  
Notary Public

**ORDER OF THE BOARD**

**IT IS SO ORDERED.**

**IT IS FURTHER ORDERED** that should Dr. Brown fail to comply with any terms or conditions of this Agreement, Dr. Brown 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. Brown. Should this Agreement become null and void by Dr. Brown's failure to comply with terms or conditions of this Agreement, the Board may not only pursue an administrative action against Dr. Brown, but the Board may also seek the maximum fees, fines, and costs.

DATED this 6<sup>th</sup> day of April, 2010.

NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

BY: [Signature]  
For Dr. C. Dean Milne, Vice-President of the Board

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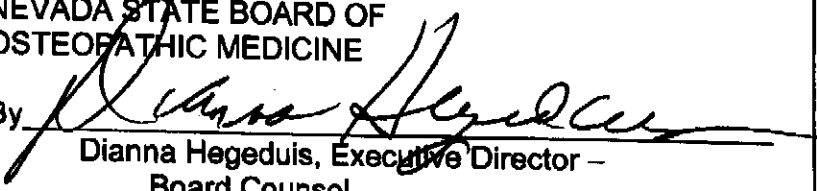
7                   **WRITTEN NOTICE OF ENTRY OF**  
8                   **ORDER APPROVING AGREEMENT**

**FILED**

9                   PLEASE TAKE NOTICE that the Nevada State Board of Osteopathic Medicine  
10 approved the Settlement Agreement entered into by the parties to this matter; and a file-  
11 stamped copy of the same is attached hereto.

12                   DATED THIS 7<sup>th</sup> day of April, 2010.

13                   NEVADA STATE BOARD OF  
14                   OSTEOPATHIC MEDICINE

15 By 

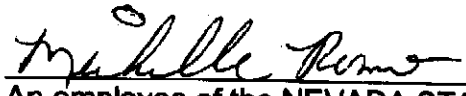
16                   Dianna Hegeduis, Executive Director -  
17                   Board Counsel  
18                   901 American Pacific Dr., # 180  
19                   Henderson, NV 89014

20                   **CERTIFICATE OF MAILING**

21 I hereby certify that on the 7<sup>th</sup> day of April, 2010, I served a copy of the foregoing  
22 notice, with attached Settlement Agreement/Order, upon the respective parties to this matter  
23 by depositing a true copy thereof in the U.S. mail, addressed to them at their last known  
24 address, postage thereon prepaid, addressed as follows:

25                   Kevin Brown, D.O.  
26                   832 Willow Street  
27                   Reno, NV 89502

28                   **PERSONAL & CONFIDENTIAL**



An employee of the NEVADA STATE BOARD  
OF OSTEOPATHIC MEDICINE