

1 **BEFORE THE NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE**
2 IN THE MATTER OF THE COMPLAINT
3 AGAINST
4 HARVEY Z. HOFFMAN, D.O.,
5 RESPONDENT.

Case No. 2009-01024
NV STATE BOARD OF OSTEOPATHIC MEDICINE

Filed: **JAN 15 2009**

FILED
Executive Director

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

9 PLEASE TAKE NOTICE that an order has been entered in this matter; and a copy of
10 the same is attached hereto.

11 DATED THIS 9th day of January, 2009.

12 CATHERINE CORTEZ MASTO
13 Attorney General

14 By: 

15 Dianna Hegeduis, # 5616
16 Sr. Deputy Attorney General
17 555 E. Washington Avenue, Suite 3900
18 Las Vegas, Nevada 89101

18 **CERTIFICATE OF SERVICE OF PROCESS**

19 I hereby certify that on the 9th day of January, 2009, I served a copy of this notice
20 with attached "Settlement Agreement & Order" upon the following identified persons,
21 addressed to them at their last known address, postage thereon prepaid, Via US Mail,
22 addressed as follows:

22 Harvey Z. Hoffman, D.O.
23 3301 Bay Shore Blvd., # 609
24 Tampa, FL 33629

24 Harvey Z. Hoffman, D.O.
25 520 Falkenburg Rd.
26 Tampa, FL 33619

27 
28 An employee of the Office of the Nevada State Attorney General

1 BEFORE THE NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE
2 IN THE MATTER OF THE COMPLAINT)
3 AGAINST)
4 HARVEY Z. HOFFMAN, D.O.,)
5 RESPONDENT.)

NEVADA STATE BOARD OF
OSTEOPATHIC MEDICINE

Case No.: ~~AD07010409~~ JAN 06 2009

Filed: **FILED**

Executive Director

SETTLEMENT AGREEMENT AND ORDER

I. PARTIES

This Settlement Agreement and Order ("Agreement and Order") is made by and between Daniel Curtis, D.O., Investigative Board Member ("Curtis" or "Investigative Board Member") for the Nevada State Board of Osteopathic Medicine ("the Board") through their counsel, Dianna Hegeduis, Sr. Deputy Attorney General, of the Nevada Attorney General's Office and Harvey Z. Hoffman, D.O. ("Dr. Hoffman") (collectively referred to as "the Parties").

II. RECITALS

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

- A. WHEREAS, the Board, through Investigative Board Member Curtis filed a complaint ("Complaint") in this action. The Complaint resulted from the Board's staff due diligence in investigating its applicants/licensee, and certain information came to light regarding prior lawsuits.
- B. WHEREAS, the Investigative Board Member alleged that Dr. Hoffman failed to report lawsuits regarding Lemenn, Talarico, Shipley, and Bennett, as more fully described in the complaint on file herein, and such were violations of NRS 633.527. The Investigative Board Member further alleged that Dr. Hoffman incorrectly responded to questions on the license renewal applications concerning each of those four (4) lawsuits. Pursuant to NRS 633.741, it is a Category D felony for providing false and/or forged documents to the Board; and by failing to report the lawsuits and answering in the negative on the applications, each such act is a Category D felony.
- C. WHEREAS, the parties have agreed to settle this matter as described herein and the previously scheduled Hearing was cancelled.
- D. WHEREAS, the parties understand that this Agreement will be signed by the respective parties and will then be offered to the Board for the entire Board's approval at the next Board meeting, with the recommendation of the Investigating Board Member that this matter be settled. The Agreement shall not become effective until it has been approved by a majority of the Board and endorsed by a representative member of the Board.
- E. WHEREAS, Dr. Hoffman understands that the Board is free to accept or reject this Agreement and, if rejected by the Board, a formal disciplinary hearing on a complaint

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1 against Dr. Hoffman may be scheduled. The Board members who review this matter for
2 approval of this Agreement may be the same members who ultimately hear the
3 disciplinary complaint if this Agreement is not approved by the Board. Dr. Hoffman
4 hereby agrees to waive any rights he might have to challenge the impartiality of the
5 Board to hear the disciplinary complaint, based on prior knowledge obtained by the
6 Board through consideration of this Agreement, if after review by the Board, this
7 Agreement is rejected. Furthermore, if the Board does not accept the Agreement, it
8 shall be regarded as null and void.

9 F. WHEREAS, Dr. Hoffman acknowledges that the Board will retain jurisdiction over this
10 matter until all terms and conditions set forth in this Agreement and Order have been
11 met to the satisfaction of the Board.

12 G. WHEREAS, Dr. Hoffman acknowledges that the Board had a reasonable basis to
13 believe that the statutes and/or regulations regulating the practice of Osteopathic
14 Medicine in the State of Nevada may have been violated. Dr. Hoffman agrees to abide
15 by all rules governing the practice of osteopathic medicine in Nevada. Dr. Hoffman
16 claims that while working at the Detention Center/corrections center in Clark County,
17 Nevada, lawsuits were filed by inmates. The lawsuits were turned over to the
18 insurance carrier for the group providing the medical care for inmates; and Dr. Hoffman
19 had no further involvement with the lawsuits. Because of the lack of personal
20 involvement with the lawsuits, the information was not provided to the Board.

21 H. WHEREAS, in order to resolve the matter of disciplinary proceedings and to save
22 further costs and expenses, Dr. Hoffman has elected to enter into this Agreement.

23 I. WHEREAS, Dr. Hoffman acknowledges that once accepted by the Board, this
24 Agreement and all associated documentation become a matter of public record.

25 J. WHEREAS, Dr. Hoffman has had the opportunity to obtain the advice from competent
26 counsel of his choice concerning the terms and conditions of this Agreement and the
27 execution thereof. No coercion has been exerted upon Dr. Hoffman, nor have any
28 promises been made other than those reflected in this Agreement. Dr. Hoffman freely
and voluntarily entered into this agreement, motivated only by a desire to resolve the
issues addressed herein. Dr. Hoffman has executed this Agreement only after a
careful reading of it and a full understanding of all its terms.

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

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

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

1 **III. TERMS OF THE AGREEMENT**

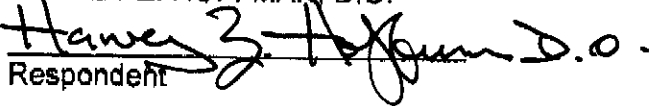
- 2 A. Dr. Hoffman acknowledges that if such allegations were true, after proven at an
3 administrative hearing and reviewed by the appropriate Courts, each such act would
4 be a violation of NRS chapter 633 and substantial discipline would be warranted. In
5 exchange for the Board not pursuing the administrative action and Dr. Hoffman not
6 pursuing subsequent reviews by the appropriate appellate Courts, the parties have
7 agreed to resolve the current Complaint in light of Dr. Hoffman no longer being
8 involved/employed with the detention centers in Clark County, Nevada, which prior
9 employment created the medical claims alleged in the four lawsuits involving
10 Lemenn, Talarico, Shipley, and Bennett. Dr. Hoffman will henceforth insure that all
11 lawsuits involving himself will be timely and accurately reported to the Board, and
12 the failure to do so will result in the Board bringing an action to revoke the
13 osteopathic medical license issued by the Board to Dr. Hoffman. If any lawsuit is
14 not reported to the Board, such will be in violation of this agreement as well as the
15 applicable statutes.
- 16 B. Dr. Hoffman agrees to pay the sum of Seven Thousand, Five Hundred Dollars
17 (\$7,500.00) as fees and costs incurred in the prosecution of this action pursuant to
18 NAC 633.470; such amount shall be payable in the amount of \$1,000.00 per month
19 beginning on December 15, 2008, and continuing until the full amount of Seven
20 Thousand, Five Hundred Dollars is paid. The parties realize the final payment will
21 be in the amount of \$500.00.
- 22 C. Should Dr. Hoffman fail to satisfy and pay the indebtedness of \$7,500.00 in a timely
23 manner as discussed herein, Dr. Hoffman understands and agrees that he will be
24 considered in default of this Agreement, and this agreement will be null and void,
25 with the Respondent receiving credit for payments made to date. The Board may
26 take whatever action it deems appropriate, including but not limited to reducing the
27 balance to judgment pursuant to NRS chapter 353C.
- 28 D. Should Dr. Hoffman fail to satisfy and pay the indebtedness of \$7,500.00 in a timely
 manner as discussed herein, Dr. Hoffman understands and agrees that the Board
 may pursue the remaining allegations set forth in the complaint against him.
- E. The Respondent, Dr. Hoffman, agrees to bear his own fees and costs, including the
 fees and expenses of his own attorney(s) if applicable.
- F. 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.
- G. This Agreement and Order shall be construed in accordance with the laws of the
 State of Nevada.
- H. This settlement agreement consists of five (5) pages and embodies the entire
 agreement between the Board and the Respondent. 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.
- I. In consideration for the execution of this Agreement, Dr. Hoffman hereby releases
 and forever discharges the State of Nevada, the Board of Osteopathic Medicine,
 and the Nevada State Attorney General's Office, 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


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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, including those noted in the administrative complaint on file herein, and other matters relating thereto.

- J. Dr. Hoffman, 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 disciplinary action, this settlement or its administration.
- K. 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.

HARVEY Z. HOFFMAN, D.O.

 Respondent

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

CATHERINE CORTEZ MASTO
 Attorney General
 By: 
 Bianna Hegeduis, Sr. Deputy Attorney General
 Counsel for the Investigating Board Member

ORDER OF THE BOARD

IT IS SO ORDERED.

IT IS FURTHER ORDERED that should Dr. Hoffman fail to comply with any terms or conditions of this Agreement, Dr. Hoffman 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. Hoffman. Should this Agreement become null and void by Dr. Hoffman's failure to comply with terms or

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1 conditions of this Agreement, the Board may not only pursue an administrative action against
2 Dr. Hoffman, but the Board may also seek the maximum fees, fines, and costs.

3 DATED this 6th day of JANUARY, 2008.

4 NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

5
6 BY: *C. Dean Milne, MD*
7 Dr. C. Dean Milne, Vice-Chairman of the
8 Board
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