

Nevada State Board of Osteopathic Medicine
901 American Pacific Drive Unit 180 • Henderson, NV 89014
(702) 732-2147

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

2 IN A MATTER INVOLVING

Case No. MA1004001

3 WILLIAM VAN BURKLEO, D.O., LIC. 558,

**NV STATE BOARD OF
OSTEOPATHIC MEDICINE**

4 RESPONDENT.

JUN 16 2010

5 **SETTLEMENT AGREEMENT AND ORDER**

FILED

6 **I. PARTIES**

7 This Settlement Agreement and Order ("Agreement and Order") is made by and
8 between Daniel K. Curtis, D.O., Investigative Board Member ("Dr. Curtis" or "Investigative
9 Board Member") for the Nevada State Board of Osteopathic Medicine ("the Board") through
10 the Board's Counsel/Executive Director, Dianna Hegeduis, Esq., and William Van Burkleo,
11 D.O. ("Dr. Van Burkleo") (collectively referred to as "the Parties").

12 **II. RECITALS**

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

- 14 A. WHEREAS, the Board, through the Investigative Board Member, ascertained certain
15 information regarding litigation filed against Dr. Van Burkleo. The information was
16 ascertained as a result of the Board's staff due diligence in investigating its
17 applicants/licenseses.
- 18 B. WHEREAS, the Investigative Board Member ("IBM") has alleged as follows:
19 (1) Re: patient "NS." Suit was filed in Texas in January 2007 and dismissed in August,
20 2007, with prejudice, with no money paid on behalf of the physician. The physician did
21 not timely report the filing of the lawsuit or the dismissal thereof. The physician did,
22 however, report the same in his renewal application submitted in November 2007. The
23 IBM has alleged the failure to report violates NRS chapter 633 as discussed
24 hereinafter.
- 25 C. NRS 633.527(1) states that a licensed "osteopathic physician **shall report** to the
26 Board: (a) any action for malpractice against the osteopathic physician not later than
27 45 days after the osteopathic physician receives service of a summons and complaint
28 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 any provision of
this section, **the Board may impose a fine of not more than \$5,000** against the

1 osteopathic physician **for each violation, in addition to any other fines or penalties**
2 **permitted by law.** (Emphasis added.) This statute was added to the law in 2003.
3 By the use of the word "shall" by the Nevada State Legislature in this statute, the
4 Legislature intended to mandatorily require all osteopathic physicians to report any of
5 the four (4) events mentioned in the statute.

- 6 D. NRS 622.400(1) states that a "regulatory body [such as this Board] may recover from a
7 person reasonable attorney's fees and costs that are incurred by the regulatory body
8 as part of its investigative, administrative and disciplinary proceedings against the
9 person if the regulatory body" either enters a final order or enters into a settlement
10 agreement.
- 11 E. WHEREAS, the parties have agreed to settle this matter, rather than requiring the
12 Board to file a formal disciplinary complaint.
- 13 F. WHEREAS, the parties understand that this Agreement will be signed by the
14 respective parties and will then be offered to the Board for the entire Board's approval
15 at the next Board meeting, with the recommendation of the Investigating Board
16 Member that this matter be settled. The Agreement shall not become effective until it
17 has been approved by a majority of the Board and endorsed by a representative
18 member of the Board.
- 19 G. WHEREAS, Dr. Van Burkleo understands that the Board is free to accept or reject this
20 Agreement and, if rejected by the Board, a formal disciplinary complaint may be filed
21 and a hearing scheduled on the same. The Board members who review this matter for
22 approval of this Agreement may be the same members who ultimately hear the
23 disciplinary complaint if this Agreement is not approved by the Board. Dr. Van Burkleo
24 hereby agrees to waive any rights he might have to challenge the impartiality of the
25 Board to hear the disciplinary complaint, based on prior knowledge obtained by the
26 Board through consideration of this Agreement, if after review by the Board, this
27 Agreement is rejected. Furthermore, if the Board does not accept the Agreement, it
28 shall be regarded as null and void.
- H. WHEREAS, Dr. Van Burkleo 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.
- I. WHEREAS, Dr. Van Burkleo 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. Van Burkleo has elected to enter into this
Agreement to resolve this matter, and this matter only.
- K. WHEREAS, Dr. Van Burkleo 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. Van Burkleo 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. Van
Burkleo, nor have any promises been made other than those reflected in this
Agreement. Dr. Van Burkleo freely and voluntarily entered into this agreement,
motivated only by a desire to resolve the issues addressed herein. Dr. Van Burkleo
has executed this Agreement only after a careful reading of it and a full understanding
of all its terms.
- M. WHEREAS, Dr. Van Burkleo is fully aware of his rights to contest the charges pending
against him. These rights include: representation by an attorney at his own expense,

1 the right to a public hearing on any charges or allegations filed, the right to confront
2 and cross-examine witnesses called to testify against him, the right to present evidence
3 on his own behalf, the right to compulsory process to secure the attendance of such
4 witnesses, the right to testify on his own behalf, the right to receive written findings of
5 fact and conclusions of law supporting the decision on the merits of the complaint and
6 the right to obtain judicial review of the Board's decision. Should the Board accept this
7 Agreement, Dr. Van Burkleo voluntarily waives these rights.

- 8 N. WHEREAS, this Agreement and Order shall be construed in accordance with the laws
9 of the State of Nevada.
10 O. WHEREAS, this Agreement and Order contains a complete description of the
11 agreement between the parties and it supersedes any previous agreements between
12 the parties. All material representations, understandings and promises of the parties
13 are contained in this Agreement. Any modifications must be set forth in writing, signed
14 by all the parties, and approved by the Board.

15 III. TERMS OF THE AGREEMENT

- 16 A. Dr. Van Burkleo acknowledges that the failure to report allegations are true, and
17 each such act (failure to timely report) is a violation of NRS chapter 633 for which
18 discipline is permissible under Nevada law. In exchange for the Board not pursuing
19 an administrative action on the non-reporting allegations, and Dr. Van Burkleo not
20 pursuing subsequent reviews by the appropriate appellate Courts, the parties have
21 agreed to resolve the current matter, and only this matter. Dr. Van Burkleo will
22 henceforth insure that all lawsuits involving him will be timely and accurately
23 reported to the Board, and the failure to do so may result in the Board bringing a
24 disciplinary action against the osteopathic medical license issued by the Board to
25 Dr. Van Burkleo. If any lawsuit is not reported to the Board, such will be in violation
26 of this agreement as well as the applicable statutes. **ADDITIONALLY, THE
27 BOARD ACKNOWLEDGES, AND THE PARTIES DO HEREBY AGREE, THAT A
28 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 SOLELY TO RESOLVE THE NON-
REPORTING ISSUE..**
- B. Dr. Van Burkleo agrees to pay the sum of Five Hundred Dollars (\$500.00) as the
fine imposed for having violated NRS 633.527(1) for the failure to timely report the
events 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 \$250.00~~ each with the first payment
being due on the _____ day of _____, 2010, and a like payment
being due on the _____ day of each month thereafter until said amount is paid in
full. *pd full amt \$255*
- C. Should Dr. Van Burkleo fail to satisfy and pay the indebtedness of \$500.00 in a
timely manner as discussed herein, Dr. Van Burkleo 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. Van Burkleo, agrees to bear his own fees and costs, including
the fees and expenses of his own attorney(s) if applicable.

- 1 E. This Agreement and Order shall inure to the benefit of and be binding upon each of
2 the parties hereto and their respective heirs, personal representatives, assigns and
3 successors in interest of each party.
4 F. This Agreement and Order shall be construed in accordance with the laws of the
5 State of Nevada.
6 G. This settlement agreement consists of five (5) pages and embodies the entire
7 agreement between the Board and the osteopathic physician. It may not be
8 altered, amended or modified without the express consent of the parties, and any
9 subsequent alteration, amendment, or modification shall be in writing and subject to
10 approval by the Board.
11 H. In consideration for the execution of this Agreement, Dr. Van Burkleo hereby
12 releases and forever discharges the State of Nevada, the Board of Osteopathic
13 Medicine, and the Nevada State Attorney General's Office (as counsel for the
14 Board), and each of their representatives, investigators, and employees, in their
15 individual and representative capacity (collectively the State of Nevada Agencies)
16 from any and all manner of actions, causes of actions, suits, debts, judgments,
17 executions, claims, and demands whatsoever known or unknown, in law and in
18 equity, that he may have had, now has, may have had, or claim to have against any
19 and all of the persons and entities named in this paragraph arising out of, or by
20 reason of, the investigation of the allegations raised in this matter, and other
21 matters relating thereto.
22 I. Dr. Van Burkleo, for himself, his heirs, executors, administrators, successors and
23 assigns, hereby indemnifies and holds harmless the State of Nevada, the Nevada
24 State Board of Osteopathic Medicine, the Nevada Attorney General's office and
25 each of their members, agents and employees in their individual and representative
26 capacities against any and all claims, suits, demands, actions, debts, damages,
27 costs, charges, and expenses, including court costs and attorney's fees against any
28 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 Physician 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 agenda for the Board's approval in the month of June,
2010.

WILLIAM VAN BURKLEO, D.O.

By: William Van Burkleo
Osteopathic Physician

Dated: 5/6/10

1 NEVADA STATE BOARD OF
2 OSTEOPATHIC MEDICINE

NEVADA STATE BOARD OF
OSTEOPATHIC MEDICINE

3 BY: [Signature]
4 Daniel K. Curtis, D.O.
Investigating Board Member

By [Signature]
Dianna Hegeduis, Executive Director -
Board Counsel

5 Dated: 6-10-10

Dated: 6-10-10

7 **ACKNOWLEDGEMENT**

8 On this the 6th day of May, 2010, the said WILLIAM VAN
9 BURKLEO, D.O., personally appeared before me, a notary public, and signed the above
10 document, freely and voluntarily, under no duress.



11 [Signature]
12 Notary Public

14 **ORDER OF THE BOARD**

15 **IT IS SO ORDERED.**

16 **IT IS FURTHER ORDERED** that should Dr. Van Burkleo fail to comply with any terms
17 or conditions of this Agreement, Dr. Van Burkleo will be in breach of this Agreement; and this
18 Agreement will be null and void. The Board may take whatever action it deems appropriate,
19 including but not limited to proceeding with the administrative action against Dr. Van Burkleo.
20 Should this Agreement become null and void by Dr. Van Burkleo's failure to comply with
21 terms or conditions of this Agreement, the Board may not only pursue an administrative action
22 against Dr. Van Burkleo, but the Board may also seek the maximum fees, fines, and costs.

24 DATED this 15 day of June, 2010.

25 NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

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

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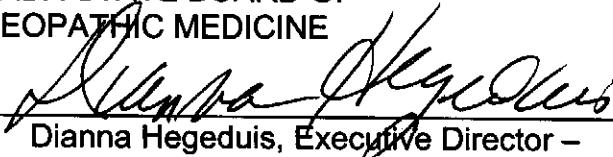
FILED

5
6 **WRITTEN NOTICE OF ENTRY OF SETTLEMENT AGREEMENT**
7 **& ORDER RE: SAME**

8 PLEASE TAKE NOTICE that the Nevada State Board of Osteopathic Medicine has
9 approved the settlement agreement in the above-referenced matter; and a copy of the
10 agreement with order is attached.

11 DATED THIS 16 day of June, 2010.

12
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 16 day of June, 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 on file with the Board, postage thereon prepaid.

25 
26 An employee of the NEVADA STATE BOARD
27 OF OSTEOPATHIC MEDICINE
28