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BEFORE THE NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

**IN THE MATTER OF THE COMPLAINT
AGAINST
JAMES DANIEL CARPENTER, D.O.,
RESPONDENT.**

Case No.: AD-06-21-926

Filed: 2/27/06

[Signature]
Executive Director

RECEIVED

FEB 27 2006

COMPLAINT

NV STATE BOARD OF
OSTEOPATHIC MEDICINE

Pursuant to the provisions of Chapter 633 of the Nevada Revised Statutes, and by virtue of the authority vested in it by said chapter, the Investigative Board Member of the Nevada Board of Osteopathic Medicine, having a reasonable basis to believe that JAMES D. CARPENTER, D.O. hereinafter referred to as "Respondent," has violated the provisions of said chapter, hereby issues its formal Complaint, stating the Investigative Board Member's charges and allegations, as follows:

1. Respondent is licensed in active status to practice medicine in the state of Nevada, and at all times alleged herein, was so licensed by the Board of Osteopathic Medicine of the State of Nevada pursuant to the provisions of Chapter 633 of the Nevada Revised Statutes.

2. NRS 633.511(1) provides that unprofessional conduct is grounds for the initiation of disciplinary proceedings.

3. NRS 633.131(1) defines "Unprofessional conduct" as follows:

(a) Willfully making a false statement or submitting a forged or false document in applying for a license to practice osteopathic medicine.

(f) Engaging in any:

(1) Professional conduct which is intended to deceive or which the Board by regulation has determined is unethical.

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4. Pursuant to NAC 633.350, a licensee engages in unethical conduct if he:

(3) Willfully makes and files false reports, records or claims in the licensee's practice

(9) Engages in any other conduct that the Board determines constitutes unfitness to practice osteopathic medicine.

5. Pursuant to NRS 633.741(3), a person who gives either false or forged evidence of any kind to the Board or any of its members in connection with an application for a license is guilty of a Category D felony and shall be punished as provided in NRS 193.130.

6. Pursuant to NRS 193.130(d), a Category D felony is a felony for which a court shall sentence a convicted person to imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 4 years. In addition to any other penalty, a court may impose a fine of not more than \$5,000, unless a greater fine is authorized or required by statute.

COUNT ONE

(Unprofessional and Unethical Conduct)

7. The allegations set forth in paragraphs 1 through 6 are incorporated herein by reference, as though set forth in full.

8. Each December, all licensees of the Nevada State Board of Osteopathic Medicine must renew their licenses by way of a "First and Final Re-Registration Notice".

9. This document requires all renewing licensees to answer "Yes" or "No" to the following question:

In the past year, have you had any claims, settlements, or judgments involving professional liability (malpractice)? If YES, please attach a separate sheet listing EACH claim, settlement or judgment listing the plaintiff, defendant, insurer, and disposition of the claim.

10. Just above its signature block, this document also requires all renewing licensees to attest to the following:

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By acknowledging this statement, answering the above renewal questions, and affirming that I have met the continuing education requirement for license renewal, I am stating under penalties of perjury that all information and answers provided in this renewal application are true and correct. I understand that it is a Category D felony to provide false information to the Board pursuant to NRS 633.741(3).

11. On December 14, 2005, Respondent completed the "First and Final Re-Registration Notice" as required by the Board, in order to renew his license to practice Osteopathic Medicine for the 2006 calendar year.

12. In completing this document, Respondent answered Question 4 Required For Renewal, in the negative. In other words, Respondent attested that within the past twelve (12) months (i.e., during the period spanning December 14, 2004 through December 14, 2005) he had no "claims, settlements, or judgments involving professional liability (malpractice)" asserted against him.

13. Respondent then signed this document attesting, among other things, that "...under penalties of perjury that all information and answers provided in this renewal application are true and correct..."

14. On April 11, 2005, Case No. A502299 in Department VII of the Eighth Judicial District Court in and for Clark County, Nevada was commenced. This document was captioned, "Complaint for Medical Malpractice" and lists "Richard Truman, an individual" as Plaintiff and further lists "James Daniel Carpenter, D.O. and Eye and Cosmetic Surgery Center of Nevada, LLC" as Defendants.

15. On June 1, 2005, Defendants, James Daniel Carpenter, D.O. and Eye and Cosmetic Surgery Center of Nevada, LLC filed their joint Answer to the Plaintiff's Complaint.

16. Because Case No. A502299 represents an instance where Respondent has sustained a claim of malpractice against him during the period spanning December 14, 2004 through December 14, 2005, Respondent's answers on his December 14, 2005, "First and Final Re-Registration Notice" were untruthful.

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1 17. Because Respondent went so far as to retain counsel to defend himself and his
2 practice in Case No. A502299, permit an Answer to be filed on his behalf, and assert all
3 applicable affirmative defenses therein, Respondent's failure to disclose this matter on his
4 "First and Final Re-Registration Notice" was a willful act of dishonesty on Respondent's part
5 which merits the Imposition of discipline against him.

6 18. Respondent's conduct as described herein, constitutes "unprofessional conduct"
7 pursuant to NRS 633.131(1)(a) and NRS 633.131(1)(f)(1).

8 19. Respondent's conduct as described herein, further constitutes "unethical
9 conduct" pursuant to NAC 633.350(3) and NAC 633.350(9).

10 20. Respondent's conduct as described herein, further represents a violation of NRS
11 633.741(3), and constitutes a Category D felony which should, therefore, be punished as
12 provided in NRS 193.130.


13 WHEREFORE, the Investigative Member of the Board of Osteopathic Medicine prays
14 as follows:

15 1. That the Nevada State Board of Osteopathic Medicine conduct a hearing on this
16 Complaint as provided by statute;

17 2. That, pursuant to NRS 633.651, Respondent, JAMES D. CARPENTER, D.O., be
18 publicly reprimanded and/or the license of Respondent, JAMES D. CARPENTER, D.O., be
19 revoked, suspended, limited to a specified branch of osteopathic medicine, or placed on
20 probation with conditions and terms as the Nevada State Board of Osteopathic Medicine may
21 deem just and proper and which are not inconsistent with law;

22 3. That Respondent, JAMES D. CARPENTER, D.O., be ordered to pay reasonable
23 attorney's fees and costs of the investigation and the administrative and disciplinary
24 proceedings.

25 DATED this 27 day of February, 2006.

26
27 By: 
28 RUDY MANTHEL, D.O.,
Investigating Member of the
Nevada Board of Osteopathic Medicine

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