

Nevada State Board of Osteopathic Medicine
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NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

In the Matter involving
SALVATORE LoBELLO, License
No. 196,

Respondent.

CASE NO. AD 1012001

**NV STATE BOARD OF
OSTEOPATHIC MEDICINE**

JAN 12 2011

FILED

FORMAL ADMINISTRATIVE COMPLAINT

COMES NOW the Nevada State Board of Osteopathic Medicine ("Board") by and through the Investigative Board Member ("IBM") C. Dean Milne, D.O., and Deputy Executive Director/Chief of Enforcement Barbara Longo, and for their complaint against Salvatore LoBello, D.O. ("Dr. LoBello") allege as follows:

General Jurisdiction

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

2. That NRS 633.511 provides that unprofessional conduct is a ground for the initiation of disciplinary proceedings.

3. That NRS 633.131(1) defines "unprofessional conduct," in part, as follows:

- (f) Engaging in any:
 - (1) Professional conduct which is intended to deceive or which the board by regulation has determined is unethical;
 - (2) Medical practice harmful to the public or any conduct detrimental to the public health, safety or morals which does not constitute gross or repeated malpractice or professional incompetence.
- (g) Administering, dispensing or prescribing any controlled substance or any dangerous drug as defined in chapter 454 of NRS, otherwise than in the course of legitimate professional practice or as authorized by law. . . .
- (k) Willful disobedience of the regulations of the State Board of Health, the State Board of Pharmacy or the State Board of Osteopathic Medicine

4. That NAC 633.350 states that a licensee engages in "unethical conduct" if he engages in any other conduct that the Board determines constitutes unfitness to practice

1 osteopathic medicine.

2 5. That NRS 633.151 states that the "purpose of licensing osteopathic physicians
3 and physician assistants is to protect the public health and safety and the general welfare of
4 the people of [the State of Nevada]. Any license issued pursuant to this chapter is a
5 revocable privilege, and a holder of such a license does not acquire thereby any vested
6 right."
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8 6. That NRS 633.651 states, in part, as follows:

9 1. If the Board finds a person guilty in a disciplinary proceeding, it shall by
10 order take one or more of the following actions:

11 a. Place the person on probation for a specified period or until further
12 order of the Board.

13 b. Administer to the person a public reprimand.

14 c. Limit the practice of the person to, or by the exclusion of, one or more
15 specified branches of osteopathic medicine.

16 d. Suspend the license of the person to practice osteopathic medicine
17 for a specified period or until further order of the Board.

18 e. Revoke the license of the person to practice osteopathic medicine.

19 f. Impose a fine not to exceed \$5,000 for each violation,

20 g. Require supervision of the practice of the person,

21 h. Require the person to perform community service without
22 compensation,

23 i. Require the person to complete any training or educational
24 requirements specified by the Board,

25 j. Require the person to participate in a program to correct alcohol
26 or drug dependence or any other impairment.

27 The order of the Board may contain such other terms, provisions or conditions as the
28 Board deems proper and which are not inconsistent with law.

2. The Board shall not administer a private reprimand.

COUNT ONE

(Unprofessional & Unethical Conduct / lack of DEA & Pharmacy Board registrations/certifications)

29 7. That the allegations and representations found in Paragraphs 1 through 6,
30 inclusive, of this Complaint are incorporated herein by this reference as though such
31 allegations were more fully set forth herein.

32 8. That the Drug Enforcement Agency ("DEA") registration for Dr. LoBello expired
33 on the 31st day of October, 2007.

1 9. That Dr. LoBello's registrations for dispensing and/or prescribing controlled
2 substances with the Nevada State Board of Pharmacy expired on the 31st day of October,
3 2008.

4 10. That pursuant to 21 C.F.R. §1306, a physician is required to not only have a
5 controlled substance/dangerous drug registration in the state in which the physician is
6 prescribing, but the physician must also have a registration with the DEA. Satisfying one
7 portion of the two-prong requirements is insufficient for purposes of writing and/or issuing
8 prescriptions for controlled substances.

9 11. That Dr. LoBello wrote and/or issued two prescriptions for controlled
10 substances (soma – carisoprodol) during January, 2010 as well as wrote and/or issued other
11 prescriptions for controlled substances during the months of June and August 2010, without
12 the required registrations with the DEA and the Nevada State Board of Pharmacy
13 ("Pharmacy Board"); and such is unprofessional conduct inasmuch as his DEA registration
14 expired on October 31, 2007 and his registration with the Pharmacy Board expired on the
15 31st day of October, 2008.

16 12. That Dr. LoBello has more specifically engaged in unprofessional conduct by
17 reason of the following acts: (a) he deceived the public by writing and/or issuing prescriptions
18 for controlled substances during the months of January, June, and August 2010, when he
19 did not have the DEA authority to do so nor the Pharmacy Board's authority to do so; (b) by
20 writing and/or issuing such prescriptions without compliance with the Federal Code of
21 Regulations during the months of January, June, and August, 2010, he has engaged in
22 medical conduct that is harmful and/or detrimental to the public's health, safe, and morals,
23 and does not comply with the standards of care and prescribing requirements for osteopathic
24 physicians practicing in the State of Nevada; and (c) by writing and/or issuing prescriptions
25 as noted herein without a DEA or Pharmacy Board registration, Dr. LoBello has violated NRS
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1 chapter 454 and the federal regulation identified herein. Based upon such unprofessional
2 conduct as described in this paragraph, discipline is warranted pursuant to NRS 633.511 and
3 such discipline is set forth in NRS 633.651.

4 13. That Dr. LoBello has more specifically engaged in unethical conduct by reason
5 of the following acts: (a) he deceived the public by writing and/or issuing prescriptions for
6 controlled substances during the months of January, June, and August 2010, when he did
7 not have the DEA authority to do so nor the Pharmacy Board's authority to do so; (b) by
8 writing and/or issuing such prescriptions without compliance with the Federal Code of
9 Regulations during the months of January, June, and August, 2010, he has engaged in
10 medical conduct that is harmful and/or detrimental to the public's health, safe, and morals,
11 and does not comply with the standards of care and prescribing requirements for osteopathic
12 physicians practicing in the State of Nevada; and (c) by writing and/or issuing prescriptions
13 as noted herein without a DEA or Pharmacy Board registration, Dr. LoBello has violated NRS
14 chapter 454 and the federal regulation identified herein. Based upon such unethical conduct
15 as described in this paragraph, discipline is warranted pursuant to NRS 633.511 and such
16 discipline is set forth in NRS 633.651.

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19 **COUNT TWO**

20 **(Fees & Costs Due to the Nevada Board)**

21 14. That the allegations and representations found in Paragraphs 1 through 13,
22 inclusive, of this Complaint are incorporated herein by this reference as though such
23 allegations were more fully set forth herein.

24 15. That NRS 622.400(1) states that a "regulatory body [such as this Board] may
25 recover from a person reasonable attorney's fees and costs that are incurred by the
26 regulatory body as part of its investigative, administrative and disciplinary proceedings against
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1 the person if the regulatory body” either enters a final order or enters into a settlement
2 agreement.

3 16. That based upon the above-cited statutory authority, fees and costs incurred by
4 the Board in its investigation and prosecution of this matter are warranted.

5 17. That based upon Dr. LoBello’s violations of various provisions of NRS and NAC
6 chapters 633, the Board is entitled to reimbursement of its fees and costs incurred in the
7 investigation of this matter in the amount of \$10,000.00.

8
9 **PRAYER**

10 WHEREFORE, the Investigative Board Member, C. Dean Milne, D.O., of the Nevada
11 State Board of Osteopathic Medicine and Barbara Longo, Deputy Executive Director-Chief of
12 Enforcement for the Board, pray as follows:

13 1. That the Nevada State Board of Osteopathic Medicine appoint a hearing officer
14 in this matter and that such hearing officer conduct a hearing on this Complaint as provided
15 by statute;

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

22 3. That Respondent, Salvatore LoBello, D.O., be ordered to (a) pay all reasonable
23 investigative fees incurred by the Board and attorney’s fees and costs incurred during the
24 investigation as well as (b) pay all Board investigative and attorneys’ fees and costs incurred
25 during the administrative and disciplinary proceedings;

26 4. That Dr. LoBello be ordered to pay fines pursuant to NRS 633.651 of up to
27 \$5,000 per violation as identified herein; and

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1 5. That the Board recover such other and further relief as the Hearing Officer
2 deems appropriate under the circumstance against Respondent Salvatore LoBello, D.O.

3 DATED this 12 day of January, 2011.

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5 NEVADA STATE BOARD OF
6 OSTEOPATHIC MEDICINE

7 By: C. Dean Milne
8 C. Dean Milne, D.O., Investigating
9 Member of the Nevada State Board of
10 Osteopathic Medicine

11 Submitted by:
12 NEVADA STATE BOARD OF
13 OSTEOPATHIC MEDICINE

14 By: Dianna Hegedus
15 Dianna Hegedus, # 5616
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