BEFORE THE NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

IN THE MATTER OF THE COMPLAINT
AGAINST
MING-WEI WU, D.O.,
RESPONDENT.

COMPLAINT

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 State Board of Osteopathic Medicine ("Board"), having a reasonable basis to believe
that MING-WEI WU, D.O., hereinafter referred to as "Respondent" or "Dr. Wu," has violated
the provisions of said chapter, hereby issues its formal Complaint, stating the Investigative
Board Member's charges and allegations, as follows:

I.
General Allegations/Jurisdiction

1. That 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. That NRS 633.511(1) provides that unprofessional conduct is a ground for the
initiation of disciplinary proceedings by this Board.

3. That NRS 633.511(5) provides that professional incompetence is a ground for the
initiation of disciplinary proceedings by this Board.

4. 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.
5. Pursuant to certain provisions of NAC 633.350(9), a licensee engages in unethical conduct if he engages in any other conduct that the Board determines constitutes unfitness to practice osteopathic medicine.

6. Pursuant to NAC 633.370, if a medical competency examination determines that a licensee is not competent to practice osteopathic medicine with reasonable skill and safety to patients, the Board will consider that determination to constitute a rebuttal presumption of profession incompetence with regard to the licensee.

7. NRS 633.111 defines professional incompetence as including the lack of ability to safely and skillfully practice osteopathic medicine.

II.

UNETHICAL CONDUCT

8. The allegations raised in Paragraphs 1 through 7 of the Section I, General Allegations/Jurisdiction, of this Complaint are incorporated herein by this reference as though such allegations were more fully set forth herein.

9. Patient J.D., a 67 year old female with pain in her lower abdomen, was admitted to Desert Springs Hospital in Las Vegas, Nevada, on or about April 6, 2007. After an initial diagnosis, Respondent determined that the Patient had developed an incarcerated ventral hernia with bowel content in the hernia, thus requiring a surgical procedure. The records from Desert Springs Hospital indicate that the patient expired at said hospital.

10. On or about April 6, 2007, without proper consultation and physical examination, Respondent initiated a surgical procedure making a vertical incision through the skin and along the hernia. Upon dissection, Respondent located and opened the hernia sac whereupon he repaired an injured bowel region.

11. Because Patient's medical records lack documentation pertaining to Patient's consultation and physical examination prior to operation, Respondent has violated NAC 633.350(3)(4) and (5) by "not generating or creating medical records relating to the diagnosis, treatment and care of a patient."
12. Respondent also engaged in unethical conduct in violation of NAC 633.350(3)(4) and (5) when he failed to obtain the specific consent of Patient prior to performing a surgical operation. See Consent To Treatment and Conditions of Admission.

III.

GROSS NEGLIGENCE AND DISREGARD OF ESTABLISHED MEDICAL PROCEDURES

13. The allegations contained in paragraphs 1 through 7 of Section I, General Allegations, and Paragraphs 8 through 12, Count I pertaining to Patient’s care and treatment, inclusive, of this Complaint are incorporated herein by reference, as though each such allegation was more specifically set forth in full herein.

14. At no time either before or immediately following the said surgical operation, did Respondent administer to Patient or have administered to Patient any antibiotic drug. The use of antibiotics either before or immediately following a surgical procedure has been accepted by osteopathic physicians in the community as a common and necessary safeguard to prevent infection due to surgical wounds especially with the use of mesh.

15. Because of Respondent’s failure to administer antibiotics to Patient and otherwise follow the appropriate and established medical procedures with respect to the treatment of Patient, Respondent has violated NRS 633.041, gross negligence, and in particular Subsection 3, willful disregard of established medical procedures.

16. Pursuant to NRS 633.131(1)(f), discipline is warranted as the medical care rendered to Patient by Dr. Wu did not rise to the appropriate standard and/or established medical procedures, and such medical practice was harmful and detrimental to the public and its safety, especially to Patient.

III.

PROFESSIONAL INCOMPETENCE

17. The allegations contained in paragraphs 1 through 7 of Section I, General Allegations; Paragraphs 8 through 12 of Section II pertaining to Respondent’s unethical conduct; and Paragraphs 13 through 16 of Section III pertaining to Respondent’s gross
malpractice, all inclusive, of this Complaint are incorporated herein by reference, as though
each such allegation was more specifically set forth in full herein.

18. With respect to Respondent’s failure to administer antibiotics to Patient,
Respondent has failed to exhibit the professional competency required of an osteopathic
physician and has failed to safely and skillfully practice osteopathic medicine in this
community. NRS 633.111.

19. More specifically, Respondent’s failure to implement a well established
precautionary measure accepted by osteopathic physicians in the community demonstrates
Respondent’s “apparent lack of knowledge and/or training” pursuant to NRS 633.111(1).

V.

SUMMARY SUSPENSION

20. The allegations set forth in paragraphs 1 through 19 of the foregoing complaint are
incorporated herein as if they were repeated more fully in this Section.

21. That the public health, safety, and welfare imperatively require action and
summary suspension of Respondent’s license to practice medicine in the state of Nevada
pending a hearing on the Complaint. That the continuing practice of medicine or the
continuing ability to practice medicine by Respondent during the pendency of the time
necessary for a hearing on this Complaint would endanger the health, safety, and welfare of
his patients.

VI.

PATTERN OF UNETHICAL & UNPROFESSIONAL CONDUCT WHICH
CONSTITUTES AN UNFITNESS TO PRACTICE MEDICINE

22. The allegations set forth in paragraphs 1 through 21, inclusive, of the foregoing
complaint are incorporated herein as if they were more fully set forth in this count.

23. That the Respondent has engaged in a pattern of unethical and unprofessional
conduct. That, taken as a whole, Respondent’s conduct constitutes a pattern of conduct
which renders Respondent unfit to practice Osteopathic medicine.

....
VII.

PRAYER

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

1. That the Nevada State Board of Osteopathic Medicine schedule a hearing pursuant to the Board's authority found in NRS and NAC chapters 633, as well as NRS chapter 233B, NRS chapter 622, and NRS chapter 622A, and affirmatively find that the public health, safety, and welfare require action against Respondent, Ming-Wei Wu, and his license to practice Osteopathic Medicine in the State of Nevada;

2. That, pursuant to NRS 633.651, Respondent, Ming-Wei Wu, D.O., be publicly reprimanded and/or the license of said Respondent be revoked, suspended, limited, or placed on probation with conditions and terms as the Nevada State Board of Osteopathic Medicine may deem just and proper and which are not inconsistent with law;

3. That Respondent Ming-Wei Wu, D.O., be ordered to pay reasonable attorney's fees and costs of the investigation and the administrative and disciplinary proceedings;

4. That the Board immediately conduct a summary suspension hearing concerning Respondents and summarily suspend his license to practice osteopathic medicine in the State of Nevada until a formal administrative hearing can be held; and

5. For such other and further relief that the Board deems appropriate.

DATED this ___ day of March, 2009.

NEVADA STATE BOARD OF OSEOPATHIC MEDICINE

By: [Signature]

CATHARINE COREZ MASTO
Attorney General

By: [Signature]

555 E. Washington Avenue, Suite 3900
Las Vegas, Nevada 89101

Dianna Hegeduis, # 5616
Sr. Deputy Attorney General
BEFORE THE NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

IN THE MATTER OF THE COMPLAINT
AGAINST
MING-WEI WU, D.O.,
RESPONDENT.

NOTICE OF DISMISSAL OF COMPLAINT

PLEASE TAKE NOTICE that the complaint in this matter is DISMISSED, with prejudice, with each party to bear their own fees and costs. Although this matter had been scheduled for hearing, no answer has been filed to date by the Respondent in this matter.

DATED this 6th day of April, 2009.

NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

By:
LISA MILLER ROCHE,
Investigating Member of the Nevada Board of Osteopathic Medicine

Submitted by:
CATHERINE COREZ MASTO
Attorney General

By:
Diprima Hegeduis, # 5616
Sr. Deputy Attorney General
555 E. Washington Avenue, Suite 3900
Las Vegas, Nevada 89101
Attorneys for the Board / IBM