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:

1. 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.

COUNT ONE (CARE & TREATMENT OF PATIENT “A” (A.T.))

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 A, a male with reportedly no previous major medical problems, was admitted to Desert Springs Hospital in Las Vegas, Nevada, on or about April 27, 2007, with complaints of upper abdominal pain and mid-chest pain; and on or about the following day (April 28, 2007), Respondent performed a total gastrectomy with esophagojejunostomy.

10. A cascade of medical and surgical complications arose as a result thereof, including repeated Anastomotic failures and overwhelming sepsis resulting from the surgery performed by Respondent on April 28, 2007; and Patient A ultimately died as a result of the various complications.

11. Because of Respondent’s failure to monitor, diagnose, treat and/or assess Patient A’s condition, and implement appropriate and established medical procedures with respect to the treatment of Patient A, Respondent has violated NRS 633.041, gross negligence, and in particular Subsection 3, willful disregard of established medical procedures.
12. Because of Respondent's failure to monitor, diagnose, treat and/or assess Patient A's condition, and implement appropriate and established medical procedures with respect to the treatment of Patient A, Respondent has violated NRS 633.111, professional incompetence, and in particular Subsection 1 thereof, i.e., apparent lack of knowledge and/or training.

III.

UNPROFESSIONAL CONDUCT

13. The allegations contained in paragraphs 1 through 7 of Section I, General Allegations, and Paragraphs 8 through 12, Count I pertaining to Patient A'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. With respect to the treatment rendered by Respondent to Patient A, said 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.

15. Pursuant to NRS 633.131(1)(f), discipline is warranted as the medical care rendered to Patient A 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 A.

IV.

UNETHICAL CONDUCT

16. The allegations contained in paragraphs 1 through 7 of Section I, General Allegations; Paragraphs 8 through 12 of Count I pertaining to Patient A's care and treatment; and Paragraphs 13 through 15 of Count III, Unprofessional Conduct, all inclusive, of this Complaint are incorporated herein by reference, as though each such allegation was more specifically set forth in full herein.

17. With respect to the treatment rendered to Patient A by Respondent, Respondent has engaged in conduct that constitutes an unfitness to practice osteopathic medicine in this
V.

SUMMARY SUSPENSION

18. The allegations set forth in paragraphs 1 through 17 of the foregoing complaint are incorporated herein as if they were repeated more fully in this Section.

19. 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

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

21. 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 under the circumstances of this case.

DATED this 3 day of March, 2009.

NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

By: DANIEL CURTIS, D.O.,
Investigating Member of the Nevada Board of Osteopathic Medicine

Submitted by:
CATHERINE COREZ MASTO
Attorney General

By: Dianna Hegeduis, # 5616,
Sr. Deputy Attorney General
555 E. Washington Avenue, Suite 3900
Las Vegas, Nevada 89101
(702) 486-3894