ORIGINAL

BEFORE THE NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

IN THE MATTER OF THE COMPLAINT AGAINST

MING-WEI WU, D.O.,

RESPONDENT.

NV STATE BOARD OF OSTEOPATHIC MEDICINE

Case No.:

Filed: MAR 04 2009

FILED

By For Executive Director

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. . . .

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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 K.O.)

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 K.O., a female, was admitted to Desert View Regional Hospital on December 27, 2008 at the hour of 6:38 p.m, for "POV/rectal bleeding." Dr. Wu was the consulting surgeon, and consent was obtained for a diagnostic colonoscopy. Tap water enemas were order in preparation for the colonoscopy. Improper bowel preparation may lead to further complications should a bowel perforation occur.

10. The colonoscopy was performed during the very late hours on December 27, 2008 or in the early morning of December 28, 2008, as the operative report shows a dictation time of 3:47 a.m., yet the preliminary consultation report indicated "no acute distress" on December 28, 2008 at 6 minutes after midnight. The patient's blood count was normal; there is no description of the alleged bleeding, and there is no documentation as to the patient's hemodynamic status due to any blood loss.

11. After the procedure, the patient experienced upper abdomen discomfort and/or subcutaneous emphysema was noticed throughout the neck. An EKG was completed. It was

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noted on the "chart notes" that the "neck area swollen. Lungs on x-rays show subQ emphysema especially L neck and axilla." The radiology report of the neck area lists the following as the impressions: extensive subsutaneous emphysema throughout the neck. This appears to arise from the chest. The radiology report for the chest area indicates "extensive pneumomediastinum with involvement of included portions of the upper abdomen. This may be related to infectious etiologies within the abdomen. A ruptured hollow viscus, such as a colon could account for free air within the abdomen and retroperitoneum. Clinical correlation is suggested. CT of the abdomen and pelvis may be of value if further evaluation is indicated clinically." The chest x-ray report indicated interval development of extensive mediastinal and subcutaneous emphysema over the neck and torso (left more than right)."

12. An operative report was prepared by Dr. Wu, indicating that the rectal exam showed bright red blood and decreased rectal tone. "The scope was introduced, and at approximately 15-20 cm area there is a fungating mass, with a concern for possible cancer. So four biopsies were taken of the fungating mass. The scope was then further introduced, where diverticulosis was identified, and, due to the amount of bright red blood, as well as the diverticulosis, the concern was advancement without proper visualization and perforating the diverticulosis. Therefore, the colonoscopy was prematurely terminated and the scope was withdrawn. . . . The patient tolerated the procedure well and was transferred to the recovery room in stable condition." Dr. Wu also noted he performed "injections" during the procedure.

13. On December 28, 2008, rather than Dr. Wu, attending physician Dr. Charles Bibby recommended the transfer of the patient to Summerlin Hospital "[b]ecause of the potential for worsening subsutaneous emphysema and associated complications." Dr. Bibby noted that he was "concerned that taking her to elevation in the helicopter may exacerbate the emphysema. Intubation may exacerbate it, as well." It was also noted on the discharge summary that Dr. Soumi was contacted by Dr. Bibby, and not Dr. Wu, and that Dr. Soumi agreed to accept the patient, and the patient was transferred via ALS Transport. The records do not show why Dr. Wu did not maintain the care and treatment of this patient in a Las Vegas hospital as Dr. Wu still enjoys privileges at several Las Vegas hospital, but rather abandoned the patient to

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another physician.

14. Patient K.O. was admitted to Summerlin Hospital. The pathology report rendered after admission to the hospital contained the diagnosis of perforated segment of colon with serosal abscess extending to the mesenteric adipose tissue; mucosal hemorrhages, crypt necrosis and pseudomembranes, consistent with an ischemic type colitis." Absent from this report is any mention of a fungating mass within the colon as alleged by Dr. Wu.

15. The radiology report of December 28, 2008 indicated "extensive perforation changes. I [Bruce Topper, M.D.] reviewed images immediately with Dr. Pankaj, actually while the patient was being scanned in the CT control room prior to patient being rushed to surgery." His findings included extensive air throughout the abdomen and pelvis consistent with perforation is present. Findings indicate perforation of a hollow viscus. Air is seen in the retroperitoneum and peritoneum and also tracking up the diaphragmatic crus region and anterior to the pericardium. The site of perforation is difficult to entire assess. Currently the patient has had endoscopy today. Large collection of air is seen superior to the transverse colon and also quite a large collection of air is seen inferior to the right kidney. Extensive bubbles seen in the pelvis as well."

16. Dr. Pankaj K. Bhatnagar performed surgery on December 29, 2008. The procedure is described as low anterior colon resection with end-descending colostomy. The postoperative diagnosis was mid rectal perforation in the area of endoscopic tattooing with peritonitis as detailed in Dr. Wu's report of injection. A colostomy bag was required.

17. On December 28, 2008, Dr. Soumi ordered, among other consultations, an infectious disease consultation, a gastroenterology consultation, and pulmonary consultation, as well as a consultation by Dr. Bhatnagar. In Dr. Soumi's discharge summary of January 5, 2009, the discharge diagnoses included: "Perforated rectum [rectal sigmoid], status post lower anterior colon resection with end descending colostomy. The perforation was noted at the endoscopic tattooing with peritonitis. Rectal bleed, resolved. Abdominal pain, resolved. Chest pressure, resolved. Pneumomediastinum, negative per repeat x-ray. Anemia. Hypothyroidism. Hypertension. Thrombocytopenia, resolved."

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18. The "clinical laboratory report" indicated as final diagnoses, the following: Sigmoid colon and proximal rectum: perforated segment of colon with serosal abscess extending to the mesenteric adipose tissue. Mucosal hemorrhages, crypt necrosis and pseudomembranes, consistent with an ischemic-type colitis. Distal margin: short segment of benign colonic mucosa showing crypt necrosis and fibrinopurulent exudate. Consistent with an ischemic-type colitis. Presence of acute inflammatory cells along the serosal surface and mesenteric adipose tissue. The comment noted was that the "proximal margin is viable with distal margin (part "B") shows mucosal necrosis throughout the length of the bowel."

19. The visual description by Dr. Wu of a "fungating mass" in the colon is incorrect. The pathology reports, as well as the inspections of the removed colon in and near the "tattooing" done by Dr. Wu, indicate the diagnosis should have been ischemic bowel, not a fungating mass. The expected mucosal sloughing of tissue from an ischemic colon easily creates the blood seen in the rectum. Failure to differentiate between an ischemic bowel and a fungating mass is unprofessional conduct.

20. Because of Respondent's inadequate treatment of patient K.O. as described immediately above, Respondent has violated NRS 633.041, gross negligence.

21. Because of Respondent's inadequate treatment of patient K.O. as described above, 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

22. The allegations contained in paragraphs 1 through 7 of Section I, General Allegations, inclusive, and Paragraphs 8 through 21, Count I pertaining to the 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.

23. With respect to the treatment rendered by Respondent to Patient K.O., 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

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community. NRS 633.111.

24. Pursuant to NRS 633.131(1)(f), discipline is warranted as the medical care rendered to the 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 K.O.

IV.

UNETHICAL CONDUCT

25. The allegations contained in paragraphs 1 through 7 of Section I, General Allegations, inclusive; Paragraphs 8 through 21 of Count I pertaining to the Patient's care and treatment, inclusive; and Paragraphs 22 through 24 of Count III, Unprofessional Conduct, inclusive, of this Complaint are incorporated herein by reference, as though each such allegation was more specifically set forth in full herein.

26. With respect to the treatment rendered to Patient K.O. by Respondent, Respondent has engaged in conduct that constitutes an unfitness to practice osteopathic medicine in this community. NAC 633.350(9).

V.

SUMMARY SUSPENSION

27. The allegations set forth in paragraphs 1 through 26 of the foregoing complaint are incorporated herein as if they were repeated more fully in this Section.

28. 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.

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VI.

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

29. The allegations set forth in paragraphs 1 through 28, inclusive, of the foregoing complaint are incorporated herein as if they were more fully set forth in this count.

30. 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

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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
OSEOPATHIC MEDICINE

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

Submitted by:
CATHERINE COREZ MASTO
Attorney General

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