January 29, 2009

Edward Hoffman, DO
2701 N. Tenaya #240
Las Vegas, NV 89128

Dear Dr. Hoffman:

This letter is to confirm that after the January 6, 2009, meeting, your license status went from probation to active as it was found that you had met all the requirements of the agreement.

If we can be of further assistance, please feel free to contact us.

Sincerely,

[Signature]

Barbara Longo
Deputy Executive Director

BL/tls

CC: Edward M. Bernstein, Esq.
BEFORE THE NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

IN THE MATTER OF THE COMPLAINT AGAINST EDWARD HOFFMAN, D.O. RESPONDENT

Case No.: AD-04-68-229
Filed: 6-1-05

Executive Director

FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION AND ORDER

This matter came on for hearing, before Lisa Miller-Roche, Acting Chairman for this hearing, and members of the Nevada State Board of Osteopathic Medicine ("Board"), noticed in accordance with Nevada’s Open Meeting laws and NRS and NAC Chapters 633. The investigating member of the Board, Dr. Gary Mono, was represented by Charlotte Bible, Chief Deputy Attorney General, and Deanne Rymarowicz, Deputy Attorney General. Respondent, Edward Hoffman, D.O., was represented by Kathleen T. Janssen, Esq., and Michael J. Rovell, Esq. The Board’s findings, conclusions of law, and order, as well as a discussion of the testimony and evidence presented, are set forth as follow:

DISCUSSION OF FACTS/CASE

This case began when a patient of Edward Hoffman, D.O. ("Dr. Hoffman") lodged a complaint with the Nevada State Board of Osteopathic Medicine ("Board"), alleging Dr. Hoffman engaged in sexual misconduct with his wife. The Investigating Board member filed a formal complaint against Dr. Hoffman on October 22, 2003 (Joint Exhibit ("Jt. Exh.") 37.1). An Amended Complaint was filed in February 2004 (Jt. Exh. 41.1), and a Second Amended Complaint was filed in April 2004 (Jt. Exh. 45.1).

In May, 2004, Dr. Hoffman voluntarily entered into a settlement agreement with the Board (Jt. Exh. 55.1). Dr. Hoffman agreed not to practice medicine until he successfully
completed a treatment program and the treatment program would last no longer than 6 weeks.

"if possible." (Jt. Exh. 54.1.)

Dr. Hoffman selected the treatment program at Elmhurst. During his stay there, Dr. Hoffman allegedly fell asleep during group therapy, extended a leave of absence to include a trip to Los Angeles without prior authorization, and committed a number of other infractions. Dr. Hoffman left the program against advice and without successfully completing the program. (Jt. Exh. 119.2, Vol. 2.)

Dr. Hoffman returned to Las Vegas and allegedly resumed the practice of osteopathic medicine. The Board filed a complaint on November 22, 2004 against Dr. Hoffman alleging that Dr. Hoffman violated the Stipulation and Order in that he failed to successfully complete the treatment program. (Jt. Exh. 65.1.)

On December 3, 2004, the Nevada State Board of Pharmacy ("Pharmacy Board") summarily suspended Dr. Hoffman’s dispensing and controlled substances registrations (Jt. Exh. 110.1). On December 4, 2004, a number of investigators from the Pharmacy Board and one from this Board reviewed records of drug purchases, which were used by Dr. Hoffman at his medical practice. At this inspection, vials containing non-FDA approved TRI Botulinum Neurotoxin Type A ("TRI" or "TRI Botulism") were found (Jt. Exh. 0.1), along with Clenbuterol, a substance approved by the FDA for veterinarian purposes with non-food producing animals, and a non-FDA approved flu vaccine from Canada.

On December 13, 2004, the Pharmacy Board filed a formal complaint against Dr. Hoffman, alleging violations of that Board’s statutes and regulations, including the dispensing of dangerous, non-FDA approved substances. (Jt. Exh. 99.1.)

Based upon the information obtained by the Pharmacy Board and the Board’s investigator concerning non-FDA approved drugs and Dr. Hoffman practicing medicine while voluntarily suspended, the Investigating Board member for this Board filed an Amended Complaint against Dr. Hoffman on December 16, 2004 (Jt. Exh. 88.1). On December 16, 2004, this Board summarily suspended Dr. Hoffman’s medical license (Jt. Exh. 86.1).
The disciplinary hearing against Dr. Hoffman on the allegations raised in the Amended Complaint commenced on February 11, 2005. The parties rested their cases on April 10, 2005; and this matter was scheduled for oral arguments, discussion on the parties’ closing briefs, and deliberations, on May 14, 2005.

At the administrative hearing, the following witnesses testified: Board Investigator John Hambrick; Pharmacy Board Investigators Fred Ackerman, Ron Shockey and Daniel Garcia; Diane Lagpacao, former assistant to Dr. Hoffman; Dr. Alex Portney, one of the physicians left in charge of Dr. Hoffman’s office during his absence; former patient Susan Blake; Dr. Patricia White; Dr. Peter Mansky, Director of Nevada Health Professionals Assistance Program; and Dr. Hoffman. Portions of the depositions of Dr. Norman Roitman and Dr. Glenn Siegel were also read into the record.

Pertinent portions of the witnesses’ testimony follow:

JOHN HAMBRICK (Transcript of Hearing (“Tr.”), Vol. 1, p. 64-160; Vol. 2, 161-268.)

Mr. Hambrick (“Hambrick”) is an investigator with the Board and testified that he obtained photocopies of the prescriptions from the Pharmacy Board - which photocopies were offered as exhibits at this hearing. (State Exh. 10-22; Hambrick’s report with attachments, State Exh. 23-134.) The prescriptions were dated during Dr. Hoffman’s suspension.

Hambrick also testified that he assisted the Pharmacy Board investigators in their inspection of Dr. Hoffman’s offices. He described Dr. Hoffman during this inspection as being cooperative and that the inspection occurred during the normal business hours. An inventory of the drugs found at Dr. Hoffman’s office is located within Exhibits 317 through 322. Certain drugs were impounded and that included a bottle of Clenbuterol (State Exh. 138) and a vial containing TRI Botulism (State Exhibits 135 and 432); as well as billing information for the TRI (State Exh. 218-19).

Hambrick recalled a conversation with Diane Lagpacao in which she stated Dr. Hoffman authorized the flu vaccination to patients. Consents for the vaccinations were obtained by Dr. Hoffman’s office from the patients (State Exh. 139-210).
FRED ACKERMANN (Tr., Vol. 3, p. 499-545.)

Mr. Ackermann ("Ackermann") is the Chief Investigator for the Las Vegas Office of the Pharmacy Board and reports to that Board’s attorney, Louis Ling. He recalled that in late October 2004 Hambrick called him for photocopies of prescriptions issued by Dr. Hoffman for controlled substances and that in the middle of November 2004, Hambrick contacted him regarding the non-FDA approved flu vaccine being offered by Dr. Hoffman’s office.

Ackermann participated in the inspection of records at Dr. Hoffman’s office in December 2004. No records could be located concerning the flu vaccine and that is a violation of the Pharmacy Board statutes. Diane did retrieve an empty vial of the flu vaccine from the disposal and provided it to the investigators. See State Exh. 211-12 for copy of bottle. Ackermann believes the flu vaccine at issue was eventually approved by the FDA. Certain substances were seized at that time and given to Hambrick for safekeeping until all issues were resolved. Clenbuterol was also found on Dr. Hoffman’s premises.

The Pharmacy Board did enter an order of suspension concerning Dr. Hoffman (State Exh. 270); however, the order was vacated after a lawsuit was filed against the Pharmacy Board.

RON SHOCKEY (Tr., Vol. 3, p. 634-88.)

Mr. Shockey ("Shockey") is an inspector with the Pharmacy Board and he typically performs the annual inspection of Dr. Hoffman’s practice. Furthermore, he participated in the inspection of Dr. Hoffman’s office in December. As a matter of fact, he did the inventory of the drugs located on those premises (e.g., Ex. 317-324). He further testified that Clenbuterol from Mexico may only be used by veterinarians as it is not approved by the FDA for human use (State Exh. 226-27); and that the TRI Botulism is not FDA-approved (State Exh. 432, correspondence from Dept. of Health & Human Services).

When questioned how pharmacies provide flu vaccines, Shockey stated that they usually hire registered nurses, there is supervision by licensed physicians, or that it is done by the County Health Department.
Shockey also stated that the DEA number for each physician will have the first letter of their last name within that number; and physicians must use their own DEA numbers for prescriptions. Testimony was offered concerning Exhibit 332, Dr. Portney signed this prescription, yet it is not his DEA number, so it is an invalid prescription. See also State Exhibit 326, signed by Dr. Portney; however, Dr. Portney does not have a dispensing registration (State Exh. 326-28).

**DANIEL GARCIA** (Tr., Vol. 3, p. 545-634.)

Mr. Garcia ("Garcia") also participated in the inspection of records at Dr. Hoffman's office in December 2004. He testified concerning various prescriptions issued during the time that Dr. Hoffman was suspended; e.g., State Exh. 11, 13, 15, 17, 18, 21, 286-310, and 330-429. Upon cross-examination, Garcia did admit that someone other than Dr. Hoffman, such as Diane, could have called into the pharmacies with these prescriptions. However, physicians are required to use their own prescription pads.

He recalls Diane mentioning to him the website for Indecentsexmd.com and even saw the order book for that website, although he was not allowed to seize it.

**DIANE LAGPACAN** (Tr., Vol. 2 (sic), p. 295-491.)

Ms. Lagpacan ("Diane") testified she worked for Dr. Hoffman for over three years as his Wellness medical assistant. The Wellness Center offered natural hormone replacement therapy, Botox, and weight loss assistance.

She acknowledged that Dr. Hoffman was "on leave" from the office between June and August 2004. While he was "on leave," Diane would call Dr. Hoffman concerning patient care. She also stated that both Drs. Portney saw Dr. Hoffman's patients during his "leave."

In September, the office returned to "full hours" upon Dr. Hoffman's return, and he began seeing patients again, initially seeing only his "VIP" patients. Dr. Hoffman saw patients between September and October. Between August and December 2004, Dr. Hoffman gave her permission to call in prescriptions. She remembers Dr. Hoffman signing prescriptions (e.g., Exhibit 22) and he helped her once start a Vitamin C I.V.
Diane claimed Dr. Hoffman gave her permission to order supplies to keep the office running while he was "on leave." (State Exh. 286-316.) However, she does not know who ordered the flu vaccine from the Canadian company. The flu vaccine was shipped to the office in a non-refrigerated manner. Diane claimed the office finally closed when one of the local news stations ran a story that Dr. Hoffman's office was administering non-FDA approved flu vaccine and she became scared when patients started calling.

Concerning the TRI Botulism, Dr. Hoffman had used it previously; however, he discontinued its use when a few patients had adverse reactions. The TRI Botulism was more cost effective than the FDA-approved Botox; e.g., more injections can be given with the TRI Botulism, thus it is more profitable to the medical office. She stated that the patients were not informed that the shots being administered were not the FDA-approved Botox from Allegan. She believes Dr. Hoffman personally gave the TRI to at least three patients and that she administered it to approximately 30 patients. The other office assistant, Selena, also administered the TRI, but she does not know how many patients were seen by Selena. She recalls patients James and Barbara having bad reactions to the TRI. TRI had to be paid for by credit card at the time of purchase, which is contrary to the normal procedure for purchasing medicine by a doctor's office (e.g., doctors would have accounts and be billed).

Concerning the Clenbuterol, she knows that Susan Blake was administered this drug; and that Ms. Blake called the office when she began experiencing adverse reactions and was told not to go to the hospital as the bad reactions would discontinue. She believes the other patients receiving Clenbuterol included, but are not limited to, Robin, Kim, and Blake.

Diane also testified about Indecentsex.com which website was created by that medical office in November 2004 (Tr., Vol. 2, p. 389), and would provide drugs for sexual enhancement. Patients would fill out the application on line and submit it to the office. Dr. Hoffman would authorize the shipment of the drug to the "patient." She believes three orders were shipped; and that one such shipment was inadvertently sent via U.S. mail. She does not recall the price for Viagra ordered via this website but does recall that these "patients" were charged for an office visit.
DR. ALEX PORTNEY (Tr., 5, p. 1138-73.)

Dr. Alex Portney ("Dr. Portney") is an allopathic (MD) internist, not an Osteopathic physician. His office is next to Dr. Hoffman's office. Initially, however, they shared support staff. He testified that he saw Dr. Hoffman's patients while he was absent and that he would open charts in his office for the patients seen by him. He did not charge for any time spent on Dr. Hoffman's wellness patients; he did it as a favor to Dr. Hoffman. He only saw the patients that needed prescriptions and would go through the patients' charts, sign the prescription, and return everything to either Diane or Selena. He believes Diane was involved in Dr. Hoffman's Wellness Center and Selena was involved in Dr. Hoffman's medical practice. The prescriptions would be mostly filled out by either Diane or Selena when he signed them and he thought they put his DEA number thereon.

He testified that he believed all prescriptions were being filled at a pharmacy rather than issued in Dr. Hoffman's office. He also stated that he did not recall seeing Dr. Hoffman personally seeing patients; and even if he did see Dr. Hoffman with someone, he would not know if that person was a friend or patient. He stated he did provide flu vaccinations in late 2004, but not the vaccine from Canada. He does not perform Botox treatments on patients.

SUSAN BLAKE (Tr., Vol. 4, p. 698-795.)

Ms. Blake ("Blake") has been a patient of Dr. Hoffman for approximately 13 years and was treated by him between June and December 2004. She believes her last treatment was November 29, 2004, and may have seen him in October 2004. She was treated for thyroid and weight loss problems. She also believes blood work may have been done in September 2004. (See Medical Records of Susan Blake, State Exh. 213-17, and additional records offered by Dr. Hoffman.)

Clenbuterol was given to her by Dr. Hoffman's office to speed up her metabolism for weight loss. Within thirty minutes of taking it, she began shaking, became hot and dizzy, and experienced an increased heart rate. She called Dr. Hoffman's office and was told that such symptoms were normal, would disappear, and not to go to the hospital. Within an hour thereafter, she turned red and began sweating profusely. She stated she was sick for
approximately 3-4 days thereafter. She threw the Clenbuterol away. She knows Diane gave the Clenbuterol to her because Diane mentioned that she did not know how to spell its name for the label on the bottle. She did not know that it was not FDA-approved. She also indicated that she never saw Dr. Portney but believes his name may have been on the bottle. She claims she normally sees either Diane or Selena.

In November 2004, she also testified that she received a "Botox touch up" treatment at Dr. Hoffman's office. She does not recall having a bad reaction to the treatment but does not believe that it was effective.

She claims she did not know Dr. Hoffman was practicing medicine while suspended until she saw a news story about the same. Dr. Hoffman also asked her to write a letter of recommendation for him in a case described by Dr. Hoffman as having to do with a relationship issue with a patient and that counseling was ordered.

Blake did acknowledge that there is a pending claim by her against Dr. Hoffman. She further testified that she signed consent forms while at Dr. Hoffman's office and that she later voluntarily provided information to the Pharmacy Board.

**DR. PATRICIA WHITE (Tr., Vol. 5, p. 1174-89.)**

Dr. White is a clinical psychologist and saw Dr. Hoffman while he was in Las Vegas, and indicated that Dr. Hoffman wanted to continue with her after his treatment at Elmhurst. Dr. Hoffman told her that the Elmhurst professionals did not understand him and were too critical of him. She indicated Elmhurst appeared very difficult and stressful for Dr. Hoffman; and that he now appears to be suffering from post traumatic stress disorder stemming from the Elmhurst treatment. Dr. White testified that Dr. Hoffman indicated it is hard for him to see peers socially, that he feels embarrassed and humiliated. She stated that Dr. Hoffman has seen her approximately 20 times and he has indicated to her that the practice of medicine is very important to him.

On cross-examination, Dr. White testified that any Board action against Dr. Hoffman should be over prior to him submitting to intense therapy. She also admitted that she knows
very little of the Elmhurst therapy program. She also testified that she has no real experience
in treating impaired physicians.

**DR. PETER MANSKY (Tr., Vol. 5, p. 1191-1242.)**

Dr. Mansky is a board certified psychiatrist, and deals with various addictive behaviors.
He testified that boundary issues have become major issues within the last few years. He
further testified that he has been practicing since the late 1960s. He does know of the
Professional Renewal Center and its founder; and he also knows of the Elmhurst program and
the Sante Center. He has actually sent patients to the Elmhurst program and the Sante
Center, believing the Sante Center is the best center out of the three for boundary
issues/problems. He is also familiar with the Menninger Center and participated in their
addiction program.

Dr. Mansky further testified that group confrontation is recommended for narcissistic
problems (Tr., Vol. 5, p. 1201); the patients have to be able to see their true problems.
Patients with narcissistic problems are very sensitive to criticism. He further offered that
group therapy should be experienced prior to participating in individual therapy as better
results would be achieved (Tr., Vol 5, p. 1204).

He testified that since Dr. Hoffman did not finish the group therapy, he is indicating he
is not yet ready for change. He also testified that Dr. Hoffman can be rehabilitated, but that he
may be also suffering from compulsive sexual problems and that his steroid use should be
reviewed (Tr., Vol 5, p. 1209).

Dr. Mansky further offered that he has heard excellent things about Dr. Hoffman and
that some narcissistic traits in a physician are a good thing (Tr., Vol. 5, p. 1242).

**DR. EDWARD HOFFMAN (Tr., Vol. 4, p. 926-86; Vol. 5, p. 992-1137.)**

Dr. Hoffman indicated he has lived in the Las Vegas area for approximately 30 years,
and is licensed to practice in Pennsylvania, New Jersey, and Nevada. He further testified that
at one time, he was a member of this Board along with Dr. Tarno. He does not do “hospital
medicine” at this time as he does not have malpractice insurance.
Dr. Hoffman testified he was previously a general physician, but now his practice is more adult oriented, with an average patient being between 30 to 70-80 years old. He claims patients typically remain with him for approximately 10 years. He is an avid runner and loves sports, but medicine is his life. He offered that cosmetic treatment is the most lucrative part of his practice.

Dr. Hoffman explained that he was not trying to be deceitful at Elmhurst. Furthermore, he did not believe this Board intended for him to close his office, and that he believed having another doctor cover his patients would be permissible pursuant to the settlement agreement. He stated he did view the websites for Professional Renewal Center, Elmhurst, and the Sante Center. He stated he was concerned that the Elmhurst program was not appropriate/did not meet the Board’s criteria outlined in the Settlement Agreement, but he did not approach the Board regarding the same.

He stated he went to the Sante Center in February 2004 (Jt. Exh. 34.1) to become a better doctor, and also saw Dr. Gary Brown, Dr. Lippert, Dr. Price, and Dr. Roitman. He stated he wanted to look at his time at Elmhurst as a sabbatical but the other patients there were not like him, with them having drug problems, having tried to commit suicide, having been molested or hating their parents. He was not like them he claims and this was a very stressful environment for him. He even claims he was afraid of bodily harm by one of his roommates. Dr. Hoffman claims that Elmhurst was too critical of him, and would turn things into negative things against him, such as an incident with driving a fellow patient (“Art”) around. Dr. Hoffman also offered excuses for incidents with another female patient he became acquainted with during the Elmhurst program and the inclusion of his girlfriend on a field trip. Dr. Hoffman claims he is a resucer -- a fixer of others' problems.

Dr. Hoffman claimed he was on the cell phone due to him being close to his son and his son was going through a difficult time in his life. Concerning the allegation that he fell asleep during the Elmhurst treatment, Dr. Hoffman claims he has a mild form of narcolepsy.

As for the practice of medicine during June and December 2004, Dr. Hoffman stated that both Drs. Portney covered for him. He admits to referring patients to other physicians, and
that he may have consulted with Drs. Portney regarding their care of his patients. All calls to
him for prescriptions were allegedly referred to Drs. Portney. He claims he did not go to the
office on a regular basis but would go in to check his mail, pay bills, and attend to other
business, but he did not treat patients. His office was formally closed in December 2004. He
further offered that during late 2004, he did not write prescriptions nor authorize anyone on his
staff to call them in for him. Dr. Hoffman claims that he admonished Diane for not using Dr.
Portney's DEA number on the prescriptions and that is one of the reasons she is testifying
against him along with the claim that Diane owes him $2,000 for the breach of her
employment contract with him. He further claimed that he allowed his office to remain open
because he was concerned with the continuity of patient care.

Dr. Hoffman claims that he is now aware that every drug must be FDA approved. He
testified that Clenbuterol can be easily obtained but that it is not marketed in the United States
because there is better asthma medicine available here. As for treating Ms. Blake in
September or October 2004, he stated that was not possible and that on September 12, 2004,
he recalls that he was driving to California with his brothers. He stated he never told Ms.
Blake not to go to the hospital, yet he was aware of the cases involving TRI in Florida, but
claims the TRI Botulism he used was different from that offered in Florida in that the Florida
physicians modified the chemical composition of that TRI substance. Dr. Hoffman testified
that, to his knowledge, the flu vaccine given to his patients was not defective or
inappropriately shipped to his office. He claimed he personally did not inject any patient with
this flu vaccine.

As for a website, Dr. Hoffman claimed that he only sold vitamins through it, and that he
only prescribed Viagra to patients he actually saw. He also stated that on Exhibit 22, his
signature was traced onto the prescription as he did not sign it. He did admit, however, that
neither Diane nor Selena can order lab work or recommend prescriptions for patients, that
they had to act under a doctor's supervision.

Concerning the Pharmacy Board inspection, he claimed he knew it was time for their
annual inspection but that they did not provide him with any notice of the inspection date and
time. He also claims that it is his practice to have an assistant with him when he is seeing a
patient, and that it is his nature to be helpful -- it is his essence. He also stated that he did
not believe the FDA should control the practice of medicine and/or physicians. He stated he
realizes, however, that he is the captain of his ship and he is responsible, but pleaded with the
Board not to revoke his license.

Portions of Dr. Siegel’s deposition testimony were read into the record (Tr., Vol. 4, p.
799-854), as were portions of Dr. Roitman’s deposition testimony (Tr., Vol. 4, p. 862-924).

FINDINGS OF FACT

Should any finding of fact mentioned hereafter be more properly construed as a
conclusion of law, may it be so deemed.

Count I

1. The Board finds that it and Dr. Hoffman entered into a settlement agreement in May
2004 wherein Dr. Hoffman would receive certain residential therapy in exchange for the
dismissal of various counts alleging he violated NRS and NAC Chapters 633.

2. The Board finds that this settlement agreement was entered into voluntarily by the
parties and the parties were represented by counsel.

3. Based upon testimony offered, the Board finds that Dr. Hoffman is computer savvy
and researched the three different residential treatment programs proposed and after such
research, Dr. Hoffman himself picked the Elmhurst treatment facility.

4. The Board finds that neither Dr. Hoffman nor his counsel ever contacted the Board
concerning any problems encountered with this program or that it was causing an aggravation
of his narcissistic traits and/or disorder.

5. Based upon the testimony of Dr. Seigel, Diane Lagpacan, and Dr. Hoffman himself,
the Board finds Dr. Hoffman did not successfully complete the program and, in fact, left the
program against the medical advice of Dr. Seigel.

6. The Board finds Dr. White’s testimony not as credible as Dr. Mansky’s testimony,
concerning Dr. Hoffman leaving the program so that additional medical problems would not
arise, in that group therapy was not her specialty and that she may have been manipulated by Dr. Hoffman during their individual therapy sessions.

7. Although the Stipulation stated that the therapy program should be four to six weeks, "if possible," the Board finds that should the residential program determine that eight to ten weeks would be more appropriate, then such an extension would still be permissible within the language and intent of the stipulation; thus, Dr. Hoffman was required to stay at Elmhurst the length of time required by that facility, whether it be four to six weeks or eight to ten weeks.

8. The Board finds that its goal with the ordered residential program was for the successful and meaningful treatment of Dr. Hoffman, allowing him to return to his medical practice.

9. The Board did recognize that the treatment program was a “for profit” facility, however, so are the doctors’ typical medical practices.

10. The Board finds that Dr. Hoffman voluntarily and knowingly left the program, without contacting the Board, which indicates disrespect for the Board and its authority; and without the successful completion thereof, there is no reliable recommendation from a medical facility concerning any return to the medical practice by Dr. Hoffman or conditions which should be placed thereon.

11. The Board is still of the opinion that group therapy is required of Dr. Hoffman prior to individual therapy, and the fact that Dr. Hoffman has sought individual therapy does not excuse his non-compliance with the Settlement Agreement.

12. This Board finds it was established by the Nevada Legislature to license Osteopathic physicians and to protect the public.

13. Although testimony was presented that Dr. Hoffman was changing, or improving, the Board finds he returned to his practice while voluntarily suspended and ordered (1) the non-FDA approved TRI Botulism, (2) the not-for-human-use Clenbuterol, and (3) the non-FDA approved flu vaccine for use in his practice, all of which actions are not indications of improvement in Dr. Hoffman’s medical judgment.
14. The Board finds that the ordering of the non-FDA approved substances indicate
that Dr. Hoffman is still exhibiting a pattern of behavior that he believes he knows better
concerning the care and treatment of his patients than all others, including the FDA, this
Board, other physicians, and our Legislature in enacting applicable statutes for Osteopathic
physicians.

15. The Board does find that Dr. Hoffman has practiced medicine for approximately 30
years and that certain of his patients do respect and admire him; however, judgment and
boundary issues still persist with respect to Dr. Hoffman.

16. The Board finds that Dr. Hoffman may have sought limited treatment from the
Sante Center in order to “slide” through the Elmhurst program; and that the Investigating
Board member has offered more than substantial evidence that Dr. Hoffman still has flawed
judgment with respect to the care and treatment of his patients and that he did not
successfully complete any residential program.

17. The Board finds that the Investigating Board Member has provided clear and
convincing evidence that Dr. Hoffman continued to practice medicine between June and
December 2004, and such evidence includes but is not limited to his office remaining open
and offering the non-FDA approved flu vaccine, the non-FDA approved TRI Botulism, and the
not for human use Clenbuterol, as well as allowing a physician to provide certain medical
treatment without the appropriate dispensing registration from the Pharmacy Board, thus, any
such treatment would be considered performed under Dr. Hoffman’s dispensing registration.

18. The Board finds Ms. Lagpacan very knowledgeable and credible, and her
testimony concerning Dr. Hoffman’s care of patients was substantiated by various
prescriptions issued between June and December 2004; and the tracing of signatures excuse
offered by Dr. Hoffman is simply not credible.

19. Although Dr. Hoffman may not have been in his office on a daily basis, the Board
finds he continued to practice inasmuch as he ordered various medical items and continued
his Wellness Center through his employees.
20. The Board finds Dr. Hoffman's testimony that he did not check bills prior to the payment thereof was not credible; and, in any event, medical activities were performed under his license in his office.

21. The Board finds it is irrelevant how many patients were actually seen and/or treated by Dr. Hoffman as his patients continued to receive medical treatment at his medical office; and it is irrelevant how many patients may or may not have had adverse reactions to the non-FDA approved substances dispensed by his office.

22. The Board further finds that dispensing medical advice to his employees is still the practice of medicine.

23. The Board finds that the Investigating Member has sustained the allegations raised in Count I of the Amended Complaint against Dr. Hoffman.

Count II

1. The Board acknowledges that certain information was offered by the manufacturer of the TRI Botulism which could have misinformed physicians and is sympathetic that certain physicians may have been deceived; however, the Board finds, with respect to this finding, that Dr. Hoffman's testimony is not credible. Dr. Hoffman is admittedly computer savvy and could have verified whether TRI is FDA-approved.

2. The Board finds testimony confirmed that Dr. Hoffman's medical practice had used/prescribed TRI before and at least one patient had suffered from adverse reactions.

3. The Board also finds that the TRI Botulism may be more cost-effective and profitable than the FDA-approved Botox.

4. The Board finds the testimony that Dr. Hoffman did not know TRI was not FDA approved as not credible and further finds the testimony that he did not review bills prior to sending them to the accountant for payment as not credible.

5. The Board finds the testimony that Dr. Hoffman did not look at the TRI label as no excuse for his office dispensing a non-FDA approved substance such as TRI.

6. The Board further finds that the new stories concerning the TRI-like substance should have put Dr. Hoffman on notice of its problems and non-approval by the FDA.
7. The Board finds that patients put their trust in their physicians and would not expect their physician to be dispensing non-FDA approved substances; especially, in light of the fact that TRI is a toxic and extremely dangerous drug.

8. The Board finds that the use of the TRI Substance was not an "off-label" use and, in any event, any off-label use must still be of FDA approved drugs.

9. The Board finds the testimony credible that TRI was used by Dr. Hoffman's medical practice, especially in light of the vial being found; that TRI is not FDA-approved; and that the Investigating Board member has offered clear and convincing proof that Dr. Hoffman, through his medical office and personnel dispensed the dangerous, non-FDA approved drug known as TRI Botulinum Neurotoxin Type A.

10. The Board finds that the Investigating Member has offered clear and convincing evidence that Dr. Hoffman clearly ordered and administered the non-approved TRI Substance during the time that he was under a voluntary suspension.

Count III

1. The Board finds that the flu vaccine in question was ultimately approved by the FDA for use in the United States; however, Dr. Hoffman ordered it from the supplier and his office administered it to patients while it was not approved by the FDA. See State Exh. 432, correspondence dated January 31, 2005 from the Dept. of Health & Human Services that the flu vaccine from Shire Pharmaceuticals is not FDA approved; "Shire does not hold a US license for influenza vaccine."

2. The Board finds the ordering of the non-FDA approved flu vaccine is another indication of Dr. Hoffman's bad judgment; and it is irrelevant that it was later approved by the FDA.

3. The Board finds that the Investigating Member has offered more than substantial evidence that Dr. Hoffman clearly administered the non-approved flu vaccine during the time that he was under a voluntary suspension.

...
Count IV

1. The Board finds the fact that one can go to any health food store, or a website, or an athletic store and purchase Clenbuterol is irrelevant to this charge against Dr. Hoffman.

2. The Board finds that an Osteopathic physician should be held to a higher standard; such a physician should know that there is a potential that a patient will mix drugs; and that it is imperative that such a physician consult with and protect his patients even though the Federal Government has not actively sought to prevent the sale of Clenbuterol.

3. The Board finds that Clenbuterol is intended for and FDA-approved for veterinarian use only, and that Dr. Hoffman's dispensing of the same is again indicative of his boundary issues, bad judgment, and a continuing pattern of his disrespect for authority. Dr. Hoffman should not be substituting his judgment over and above that of the FDA.

4. The Board finds that any consent or waiver signed by a patient would not relieve Dr. Hoffman of any liability or obligation from protecting his patients in the use of "not for human use" drugs; that such waiver does not appear to be a knowing consent and/or a full disclosure to patients; and that patients typically assume and trust that their physicians are using FDA-approved substances.

5. The Board finds that more than substantial evidence was produced to substantiate this accusation against Dr. Hoffman, including information seized from Dr. Hoffman's office, that Dr. Hoffman, through his medical office, was dispensing Clenbuterol, a non-FDA approved for human use substance, and that such substance is for veterinarian use only, in non-food producing animals.

Count V

1. The Board finds that this count of the Amended Complaint pertains to the alleged violations of the statutes and regulations of the Pharmacy Board.

2. The Board finds, however, that the Pharmacy Board vacated its summary suspension of Dr. Hoffman's dispensing and controlled substance registrations and, as such, there is no confirmed violation.
3. This Board further finds that it is not the proper forum in which to establish violations of the Pharmacy Board statutes and regulations; and based thereon, this Board finds that the Investigating Board member failed to offer substantial evidence in support of this count, and, therefore, no formal action will be taken by this Board on this Count.

**Count VI**

1. The Board finds that this Count of the Amended Complaint pertains to the Investigating Board Member's request for the summary suspension of Dr. Hoffman's license.

2. The Board finds that such suspension formally occurred on December 16, 2004; therefore, no further action is required from the Board on this Count.

**CONCLUSIONS OF LAW**

1. The Board has jurisdiction over the parties and the subject matters of the Amended Complaint on file herein pursuant to the provisions of NRS and NAC Chapters 633.

2. Dr. Hoffman is a licensed Osteopathic physician subject to the provisions of NRS and NAC Chapters 633.

3. The Board is mandated to license and monitor Osteopathic physicians in this State to protect the public health and safety, and to protect the general welfare of the people of this state. NRS 633.151.

4. On May 15, 2004, Dr. Hoffman voluntarily entered into a Settlement Agreement with this Board that he would submit to a voluntarily suspension of his license to practice medicine in this State, rather than a formal suspension, and that he would successfully complete a treatment program. In exchange for the voluntary suspension and successful completion of treatment, a complaint filed by the Investigating Member of this Board against Dr. Hoffman would be dismissed.

5. Dr. Hoffman did not successfully complete the treatment program as agreed and actually left the program against the advice of a physician, which was a breach of the settlement agreement.
6. Dr. Hoffman's medical office remained open during this suspension, and medical
care and treatment were rendered to patients either by Dr. Hoffman directly or by his
employees under his supervision; and such was a breach of the settlement agreement.

7. Such care and treatment included the issuance of prescriptions; and such was a
breach of the settlement agreement.

8. Any treatment and care rendered, or any issuance of a prescription, whether it was
to/or for one patient or multiple patients, is practicing medicine and is a breach of the settlement
agreement.

9. Dr. Hoffman through his medical office, through his medical personnel, did
administer to patients a dangerous drug known as TRI Botulism, and that such is not a FDA-
approved substance.

10. Dr. Hoffman through his medical office, through his medical personnel, did
administer to patients a dangerous drug known as Clenbuterol, which is not FDA-approved for
human use. It is for veterinarian use only, in non-food producing animals.

11. Dr. Hoffman through his medical office, through his medical personnel, did
administer to patients a flu vaccine which was not FDA-approved at the time of administration
to patients.

12. Dr. Hoffman has shown a pattern of disrespect to authority, including but not
limited to the FDA, the Pharmacy Board, and this Board.

13. Pursuant to NRS 633.641(1), proof of actual injury to a patient is not required for
proof of unprofessional conduct.

14. Pursuant to NRS 633.651 and NAC 633.470(2), this Board has authority to issue
various forms of discipline for violations of NRS and NAC Chapters 633.

15. The acts complained of by the Investigating Board Member, contained within the
Amended Complaint and discussed above, are violations of NRS and NAC Chapters 633, and
discipline is warranted herein.

16. If any conclusion of law mentioned herein be more properly construed as a finding
of fact, may it be so deemed.
DECISION AND ORDER

BASED UPON the testimony and exhibits offered, and pursuant to NRS and NAC Chapters 633, the Board orders as follows:

1. Dr. Hoffman is formally suspended from the practice of Osteopathic Medicine until further order of this Board.

2. Dr. Hoffman is ordered to seek treatment immediately through the Nevada Health Professional Assistance Foundation ("Foundation") and all facilities recommended by the Foundation for in-patient or residential treatment for successful completion of the treatment previously ordered, with the treatment and length of treatment to be determined by the Foundation and treating facility, and that the treatment shall be at least three (3) months in duration, or longer if the Foundation and or treating facility determines such is warranted.

3. Should Dr. Hoffman find that the Foundation or treating facility for some reason is unsatisfactory for treatment; Dr. Hoffman shall see that the appropriate motion is made to this Board to revisit the order for treatment through this specific facility. However, good cause must be shown by Dr. Hoffman prior to any change in this Board’s order concerning the place of treatment.

4. Dr. Hoffman is to assure that the Foundation and/or the treating facility report monthly to this Board as to the progress of the treatment; and that all costs incurred for Dr. Hoffman’s participation with the Foundation and the treating facility is to be borne by him personally and not this Board nor the State of Nevada.

5. That after successfully completing the program recommended by the Foundation and at the recommendation of the Foundation that Dr. Hoffman is capable of resuming the responsible practice of Osteopathic medicine, the Board shall review this matter and place Dr. Hoffman on probation for a term of three (3) years thereafter and during that three-years of probation, Dr. Hoffman shall seek individual therapy/counseling. The Board shall be notified by Dr. Hoffman of his choice of physician for the individual therapy.

6. That during the terms of Dr. Hoffman’s suspension and probation, he shall not utilize the dispensing registration issued to him by the Pharmacy Board in his Wellness Center.
7. That all costs incurred by this Board, from the initiation of this matter through and including May 14, 2005, shall be assessed against Dr. Hoffman and that Dr. Hoffman shall immediately make arrangements to pay this indebtedness and the previous indebtedness assessed against Dr. Hoffman. That the Investigating Board member shall within 20 days of this Order provide a statement of expenses incurred by the Board for the prosecution of this action.

8. That any violation of this order will cause the Board to revisit this matter and will result in the revocation of the license issued by this Board to Dr. Edward Hoffman.

DATED THIS ____ day of May, 2005.

Lisa Miller Roche, Acting Chairman
BEFORE THE NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

IN THE MATTER OF THE COMPLAINT

AGAINST

EDWARD HOFFMAN, D.O.

RESPONDENT

Case No.: AD-04-88-229
(Consolidated with SE-02-04-229)

Filed: 7-1-05

Executive Director

MEMORANDUM OF FEES AND COSTS

The Investigative Board member, by and through counsel, Charlotte M. Bible, Chief Deputy Attorney General submits the following breakdown of Attorneys' fees and costs in the above-referenced matters:

Attorneys' fees from May 21, 2004 through June 20, 2005:

Charlotte M. Bible 350.10 hours = $31,859.48
Dianna D. Hegeduis 114.80 hours = 10,501.91
Deanne Rymarowicz 48.60 hours = 1,047.45
David J. Pope 1 hour = 91.48
Subtotal = $43,500.32

Other fees and costs:

Court Reporter fees = $11,223.00
NSBOM Staff Hearing costs = $1,150.00
Subtotal = $12,373.00

Sub-Total Amount Due = $55,873.32

Fees and costs pursuant to Settlement Agreement and Order dated 5/20/04 = $27,887.42

TOTAL AMOUNT DUE = $83,760.74

DATED this 20th day of July, 2005.

Respectfully submitted,

BRIAN SANOVAL
Attorney General

By: CHARLOTTE M. BIBLE
Chief Deputy Attorney General
Nevada Bar No. 2751