BEFORE THE NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

IN THE MATTER OF:  

DANA FORTE, D.O.  
License No. 649,  

Respondent.  

Case No. AD1612001  
REMEDIATION AGREEMENT AND ORDER  

The Nevada State Board of Osteopathic Medicine (the Board), by and through its investigating board member Nicole Cavanagh, Ph.D., hereby enters into this remediation agreement with Dana Forte, D.O. (License No. 649). Pursuant to chapter 233B and chapter 633 of the Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC), it is hereby stipulated and agreed, by and between the parties in the above-entitled matter that this matter shall be fully and finally settled and resolved upon terms and conditions set out herein.

PERTINENT FACTS

1. On June 12, 1993, Dr. Forte became licensed by the Board to practice as an osteopathic physician in Nevada (License No. 649). Dr. Forte's practice address of record with the Board is Forte Family Practice, 9010 West Cheyenne in Las Vegas, Nevada 89129. The Board's records show that Dr. Forte is board certified in Family Medicine.

2. In September 2016, the Board's staff received a complaint regarding Dr. Forte and her practice from a patient that had originally been filed with the Nevada State Board of Medical Examiners. The Board's staff thereafter commenced an investigation. The essence of the complaint is that Dr. Forte and her practice failed to provide a patient's medical records to the patient upon a request therefore from the patient.

3. In December 2016, the Board's staff received a complaint from a patient regarding Dr. Forte and her practice from a patient. The essence of the complaint is that Dr. Forte was abusive or lacking in compassion in her dealings with a patient of the practice.

4. Since January 2008, Dr. Forte and her practice have been the subject of eighteen patient complaints. Of these eighteen complaints, ten complaints involved her and her practice's failure to provide medical records to patients, four involved her and her practice's failure to provide requested...
authorization for prescriptions, four involved allegations by patients of Dr. Forte's disruptive, rude, abusive, or uncompassionate personal demeanor toward the patient, and two involved allegations related to diagnosis or billing. (NOTE: Because several complaints involved multiple issues, the number of subject matter concerns exceeds eighteen.) With the exception of the two most recent complaints detailed in paragraphs 2 and 3 above, the other sixteen complaints were dismissed after Dr. Forte or her practice were contacted by the Board’s staff and were requested to address the issue at hand.

5. The parties are desirous to remediate the issues relating to Dr. Forte and her practice that have been raised consistently and persistently through patient complaints such that the intent and hope of this Remediation Agreement is that these issues will no longer be the subjects of patient complaints.

ACKNOWLEDGMENTS AND APPLICABLE LAW

6. In an effort to avoid the cost and uncertainty of a hearing and a subsequent imposition of disciplinary action that would be reported to the National Practitioner's Data Bank (NPDB), the parties have agreed to enter into this Remediation Agreement. In entering into this Remediation Agreement, Dr. Forte makes no admission of wrongdoing. The Board has agreed not to file an Accusation in this matter and the parties agree, instead, that the Board should rule upon this Remediation Agreement as containing all necessary elements of due process to authorize the Board to take such action. Both parties acknowledge that the purpose of this Remediation Agreement and order is to give Dr. Forte the opportunity to improve her practice and is not intended to punish her in any way. If the Board approves this Remediation Agreement, it shall be deemed and considered disciplinary action by the Board against Dr. Forte. Because the intent of this agreement is the remediation of Dr. Forte's future practice and does not involve any restriction of Dr. Forte's practice or ability to treat patients, this Remediation Agreement will not be reported to the NPDB.

7. Dr. Forte and Dr. Cavanagh, the Investigating Board Member in this matter, agree that it is in the best interests of Dr. Forte and the Board to resolve this matter without a full hearing on the merits.
8. Dr. Forte is aware of, understands, and has been advised of the effect of this Remediation Agreement, which she has carefully read and fully acknowledged. Dr. Forte acknowledges that she reviewed this Remediation Agreement and that she was provided the opportunity to review this Remediation Agreement with legal counsel of her own choice, which she declined so to do.

9. Dr. Forte has freely and voluntarily entered into the Remediation Agreement, and she is aware of her rights to contest the charges pending against her. These rights include representation by an attorney at her own expense, the right to a public hearing on any charges or allegations formally filed, the right to confront and cross-examine witnesses called to testify against her, the right to present evidence on her own behalf, the right to testify on her own behalf, the right to obtain any other type of formal judicial review of this matter, and any other rights which may be accorded to her pursuant the provisions of Chapters 233B, 622, 622A, and 633 of the NRS and the NAC. Dr. Forte is voluntarily waiving all these rights in exchange for the Board's acceptance of this Remediation Agreement.

10. Should the Remediation Agreement be rejected by the Board, it is agreed that presentation to and consideration by the Board of such proposed Remediation Agreement or other documents or matters pertaining to the consideration of this Remediation Agreement shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration, adjudication, or resolution of these proceedings and that no Board member shall be disqualified or challenged for bias. Likewise, should this Remediation Agreement be rejected by the Board, it is agreed that the terms of the Remediation Agreement, and any facts contained herein, shall not be used against Dr. Forte in any future prosecution or other action by the Board.

11. Dr. Forte for herself, her executors, administrators, successors, and assigns hereby releases and forever discharges and holds harmless the State of Nevada, the Nevada Board of Osteopathic Medicine and each of their members, agents, investigators and employees in their individual and representative capacities, from any and all manner of actions, causes of action, suit, debts, judgments, executions, claims and demands whatsoever, known and unknown, in law or equity, that she ever had, now has, may have or claim to have against any or all of the persons or entities.
named in this paragraph arising out of or by reason of this investigation, this disciplinary action, this Remediation Agreement or its administration.

12. In consideration for the execution of this Remediation Agreement, Dr. Forte hereby releases and forever discharges the State of Nevada, the Board of Osteopathic Medicine, and the Nevada Attorney General’s Office (as counsel for the Board), and each of their representatives, investigators, and employees, in their individual and representative capacity from any and all manner of actions, causes of actions, suits, debts, judgments, executions, claims and demands whatsoever, known or unknown, in law and in equity, that he may have had, now has, or claim to have against any and all of the persons and entities named in this paragraph arising out of or by reason of the investigation of the allegations raised herein and other matters relating thereto.

13. Dr. Forte acknowledges that the Remediation Agreement shall only become effective after both the Board and she have duly executed it.

14. Dr. Forte enters into this Remediation Agreement voluntarily after being fully advised of her rights and as to the consequences of this Remediation Agreement. This Remediation Agreement embodies the entire agreement reached between the Board and Dr. Forte. It may not be altered, amended, or modified without the express consent of the parties.

15. Both parties acknowledge that the Board has jurisdiction to consider and ratify this Remediation Agreement and order because Dr. Forte is an osteopathic physician licensed by the Board. Dr. Forte expressly, knowingly, and intentionally waives the 21-day notice requirement contained in the Nevada Open Meeting Law and acknowledges that this Remediation Agreement and order may be presented to the Board for its consideration and potential ratification at the Board’s meeting on February 14, 2017.

AGREED REMEDIATION

THE PARTIES DO HEREBY AGREE that based upon the information in paragraphs 1 through 15 above the following remediation is fair and appropriate and should be imposed by the Board by way of resolution of this matter:

1. Dr. Forte shall pay the Board’s administrative fees and costs in this matter totaling $450.00, payable by cashier’s or certified check or money order made payable to: “Nevada State Board
of Osteopathic Medicine." Payment shall be due within 90 days of the effective date of this
Remediation Agreement and Order, but if Dr. Forte cannot make payment in full by that time, she
may make payment arrangements with and as are acceptable to the Board's Executive Director.

2. To remediate and improve her practice of osteopathic family medicine, Dr. Forte agrees to
the following:

(a) Within 30 days of the effective date of this Remediation Agreement, Dr. Forte will review
and familiarize herself with the provisions of NRS 629.011 through NRS 629.097 with the aim and
intention of gaining an understanding of the Nevada laws related to her and her practice's making,
maintaining, confidentiality, and providing of medical records related to her and her practice's
patients. Thereafter, Dr. Forte and her practice's treatment of patients shall demonstrate that she and
the practice are incorporating the concepts and requirements contained in NRS 629.011 through NRS
629.097 into their everyday practice.

(b) Dr. Forte will develop written policies and procedures related to her and her practice's
response to patient communications and patient requests from Dr. Forte and her practice. At a
minimum, the policies and procedures will address the following issues:

(1) Patient Communications - Dr. Forte or a member of her staff will respond to any
telephonic or written request (including but not limited to a text, e-mail, or paper correspondence) for
information or action from a patient within 24 hours of Dr. Forte's or the practice's receipt of same.

(2) Requests for Medical Records - Dr. Forte and her practice shall abide by and
incorporate into their practices the terms of NRS 629.011 through NRS 629.097, except that Dr.
Forte or a member of her staff shall provide any and all medical records requested by a person
lawfully authorized to request such records pursuant to NRS 629.061 within five days of the receipt of
any such request or the particularly stated need of the requesting party, whichever sooner occurs. If
Dr. Forte and her practice are unable to comply with the terms of the preceding sentence regarding a
particular request for medical records, Dr. Forte and her practice must notify the requesting party
before the expiration of the time required in the preceding sentence of the reason why the records
cannot be timely provided. In no case, though, may the records not be provided within the time
required by NRS 629.061.
(3) Requests for Prescription Refills – Dr. Forte or an appropriate member of her staff shall take action requested of Dr. Forte or her practice for refills of prescriptions within 48 hours of any such request, either by providing the refill where Dr. Forte or another member of her staff deems the request medically sound or by denying the request and informing the patient for the reason for the denial.

(4) Retention of Communications Documents – Dr. Forte and her practice shall retain all evidences of communications made pursuant to the preceding three subparagraphs. Where the evidence of the communication is written, it shall contain the date and time of the receipt of the communication by Dr. Forte's practice. Where the evidence of the communication is electronic (such as a text, e-mail, facsimile, etc.), the actual electronic communication shall be retained. Dr. Forte and her practice shall also maintain in a paper or electronic fashion a record of all reply communications from Dr. Forte or the practice corresponding with each communication made to the practice pursuant to the preceding three subparagraphs.

(5) Employment Consequences for Failure to Comply with Policies and Procedures – Dr. Forte shall establish consequences as she deems appropriate for herself or any member of her staff for his or her failure to abide by and assure that the policies and procedures in this subparagraph are implemented and followed.

(c) Dr. Forte shall submit the written policies and procedures set out in subparagraph (b) above to the Board’s office within 60 days of the effective date of this Remediation Agreement. Board staff and the IBM shall review the policies and procedures and shall work with Dr. Forte as necessary to assure that the policies and procedures comply with that subparagraph. Once the IBM approves the policies and procedures, Dr. Forte and her practice shall immediately implement them in the practice.

3. Within 120 days of the effective date of this Remediation Agreement, Dr. Forte shall provide evidence to the Board’s office of successful completion of 12 hours of continuing medical education regarding proper and effective communication with patients in a family and general practice setting. Within 60 days of the effective date of this Remediation Agreement, Dr. Forte shall present to the Board’s office written materials related to the courses that she proposes to complete to satisfy
this paragraph, which materials shall immediately be reviewed by the IBM, who shall thereafter communicate to Dr. Forte whether the course are satisfactory or, if not, why they are not. The aim and intent of the required continuing medical education in this paragraph is to improve Dr. Forte's communication skills such that her relations and communications with her patients are satisfactory for the patients and will not result in future complaints of the nature and type that have previously been received by the Board's office from her patients.

4. For a period of three years from the effective date of this Remediation Agreement, Board staff and the IBM may request the communication records required to be made and kept pursuant to subparagraph 2(b)(4) or such other patient records to verify that Dr. Forte and Forte Family Practice have incorporated and implemented the concepts and requirements contained in the policies and procedures into her and the practice's treatment of, communication with, and responsiveness to patients and others. The intent of the obtaining and reviewing of Dr. Forte's patient medical records is to ascertain that Dr. Forte has made the remediations and improvements to her practice agreed to in this Remediation Agreement. The Board's staff will notify Dr. Forte in writing of the results of its review of each set of medical records and may, as may be necessary, make additional suggestions or observations intended to further remediate and improve Dr. Forte's practice. If the Board's staff and the IBM are satisfied from their occasional review of Dr. Forte's records that she has remediated her practice as required in this Remediation Agreement, they shall so notify Dr. Forte and the Remediation Agreement shall be deemed satisfied (as long as all other terms herein are also satisfied).

5. The parties acknowledge that it is not the present intent of the Board to report this Remediation Agreement to the NPDB as the action taken by the Board is a monetary reimbursement of administrative fees and costs unaccompanied by other licensure action, such as revocation, suspension, censure, reprimand, probation or surrender; provided however, if a report to the NPDB is determined to be legally required nothing in this Remediation Agreement shall prohibit such report in accordance with law.

6. Should the Board receive a complaint related to any conduct or action addressed by this Remediation Agreement (i.e. failure to timely provide records, failure to timely respond to a request
for action, or improper or abusive patient communication), and the complaint is found by Board staff,
after following its usual and ordinary processes, to be substantiated, then this Remediation Agreement
will be reported to the NPDB. Additionally, the Board's staff may take whatever action it deems
necessary and appropriate to address the complaint, which action may include the taking of
disciplinary action pursuant to the Board's regular and ordinary process.

7. Dr. Forte shall meet with the Board or its representatives upon request and shall cooperate
with such representatives in their supervision, monitoring, investigation, or auditing to assure
compliance with the terms and conditions of this order. Dr. Forte shall pay any and all reasonable
and necessary costs incurred by the Board resultant from this paragraph.

8. Dr. Forte's failure to materially comply with any term of this Remediation Agreement and
Order may result in discipline by the Board, up to and potentially including revocation of her license.
Board Staff may take any and all actions it deems necessary to collect any sums ordered that remain
unpaid. If Board Staff is required to pursue judicial action to effect such collections, it shall be entitled
to recover its attorney's fees and costs incurred in pursuing such judicial action.

Signed this 18th day of January, 2017.

Respondent Dana Forte

Nevada State Board of Osteopathic Medicine

By Dana M. Forte, D.O.

By Nicole Cavanagh, Ph.D.

Respondent

Investigating Board Member
ORDER

WHEREAS, on February 14, 2017, the Nevada State Board of Osteopathic Medicine approved and adopted the terms and conditions set forth in the Agreed Remediation with Dana Forte, D.O. IT IS SO ORDERED.

SIGNED AND EFFECTIVE this 14th day of Feb, 2017.

NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

[Signature]

Ronald Hedger, D.O.
Chairman
BEFORE THE NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

IN THE MATTER OF: DANA FORTE, D.O.,
License No. 649

RESPONDENT.

Case No.: AD1612001

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of February, 2017, I served a copy of the ABOVE Notice with attachment upon the parties to this matter, via U.S. Postal Service, postage thereon prepaid, addressed as follows:

Dana Forte, D.O.
9010 W. Cheyenne
Las Vegas, NV 89129

An employee of the Nevada State Board of Osteopathic Medicine