

1 **BEFORE THE NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE**

2 IN THE MATTER OF THE COMPLAINT)

3 AGAINST)

4 ZACHARY LEVOKOVE, D.O., Lic. # 943)

5 RESPONDENT.)

Case No.: MA1002006

**NV STATE BOARD OF
OSTEOPATHIC MEDICINE**

NOV 03 2010

6 **SETTLEMENT AGREEMENT AND ORDER**

FILED

7 **I. PARTIES**

8 This Settlement Agreement and Order ("Agreement and Order") is made by and
9 between Daniel K. Curtis, D.O., Investigative Board Member ("Dr. Curtis" or "Investigative
10 Board Member") for the Nevada State Board of Osteopathic Medicine ("the Board") through
11 the Board's Counsel/Executive Director, Dianna Hegeduis, Esq., and Zachary Levokove, D.O.
12 ("Dr. Levokove") (collectively referred to as "the Parties").

13 **II. RECITALS**

14 As a preamble to this Agreement, the Parties agree to the following:

- 15 A. WHEREAS, the Board, through the Investigative Board Member, ascertained certain
- 16 information regarding litigation filed against Dr. Levokove. The information was
- 17 ascertained as a result of the Board's staff due diligence in investigating its
- 18 applicants/licenses.
- 19 B. WHEREAS, the Investigative Board Member ("IBM") has alleged as follows:
- 20 (1) Re: patient "RC." Suit was filed in 2004 and it was dismissed in 2006. The
- 21 physician did not timely report the filing of the lawsuit or the dismissal thereof.
- 22 Additionally, in response to the question about the status of malpractice cases in the
- 23 2007 renewal application, physician responded "no" about the existence or dismissal of
- 24 lawsuits, and the proper response would have been "yes" because of this medical
- 25 malpractice lawsuit. (2) Re: patient "DA." Suit was filed in 2005 and it was dismissed
- 26 in 2007. The physician did not timely report the filing of the lawsuit or the dismissal
- 27 thereof. Additionally, in response to the question about the status of malpractice cases
- 28 in the 2006 and 2008 renewal applications, physician responded "no" about the
- existence or dismissal of lawsuits, and the proper response would have been "yes"
- because of this medical malpractice lawsuit. The IBM has alleged all such failures are
- violations of NRS chapter 633 as discussed hereinafter.
- C. NRS 633.527(1) states that a licensed "osteopathic physician **shall report** to the
- Board: (a) any action for malpractice against the osteopathic physician not later than
- 45 days after the osteopathic physician receives service of a summons and complaint
- for the action; (b) any claim for malpractice against the osteopathic physician that is
- submitted to arbitration or mediation not later than 45 days after the claim is submitted

1 to arbitration or mediation; (c) any settlement, award, judgment or other disposition or
2 any action or claim described in paragraphs (a) or (b) not later than 45 days after the
3 settlement, award, judgment or other disposition; and (d) any sanctions imposed
4 against the osteopathic physician that are reportable to the National Practitioner Data
5 Bank not later than 45 days after the sanctions are imposed. NRS 633.527(2) states
6 that should the Board find "that an osteopathic physician has violated any provision of
7 this section, **the Board may impose a fine of not more than \$5,000** against the
8 osteopathic physician **for each violation, in addition to any other fines or penalties**
9 **permitted by law.**" (Emphasis added.) This statute was added to the law in 2003.
10 By the use of the word "shall" by the Nevada State Legislature in this statute, the
11 Legislature intended to mandatorily require all osteopathic physicians to report any of
12 the four (4) events mentioned in the statute.

- 13 D. NRS 633.131(1) defines "unprofessional conduct" as including "willfully making a false
14 . . . statement . . . in applying for a license to practice osteopathic medicine or in
15 applying for renewal of a license to practice osteopathic medicine." Pursuant to NRS
16 633.511(1), "unprofessional conduct" is a ground for initiating a formal disciplinary
17 proceeding; and such discipline may include public reprimands, the suspension or
18 revocation of the license to practice osteopathic medicine in the State of Nevada, and
19 an assessment of a fine not to exceed \$5,000 per violation.
- 20 E. NRS 622.400(1) states that a "regulatory body [such as this Board] may recover from a
21 person reasonable attorney's fees and costs that are incurred by the regulatory body
22 as part of its investigative, administrative and disciplinary proceedings against the
23 person if the regulatory body" either enters a final order or enters into a settlement
24 agreement.
- 25 F. WHEREAS, the parties have agreed to settle this matter, rather than requiring the
26 Board to file a formal disciplinary complaint.
- 27 G. WHEREAS, the parties understand that this Agreement will be signed by the
28 respective parties and will then be offered to the Board for the entire Board's approval
at the next Board meeting, with the recommendation of the Investigating Board
Member that this matter be settled. The Agreement shall not become effective until it
has been approved by a majority of the Board and endorsed by a representative
member of the Board.
- H. WHEREAS, Dr. Levokove understands that the Board is free to accept or reject this
Agreement and, if rejected by the Board, a formal disciplinary complaint may be filed
and a hearing scheduled on the same. The Board members who review this matter for
approval of this Agreement may be the same members who ultimately hear the
disciplinary complaint if this Agreement is not approved by the Board. Dr. Levokove
hereby agrees to waive any rights he might have to challenge the impartiality of the
Board to hear the disciplinary complaint, based on prior knowledge obtained by the
Board through consideration of this Agreement, if after review by the Board, this
Agreement is rejected. Furthermore, if the Board does not accept the Agreement, it
shall be regarded as null and void.
- I. WHEREAS, Dr. Levokove acknowledges that the Board will retain jurisdiction over this
matter until all terms and conditions set forth in this Agreement and Order have been
met to the satisfaction of the Board.
- J. WHEREAS, Dr. Levokove acknowledges that the Board had a reasonable basis to
believe that the statutes and/or regulations regulating the practice of Osteopathic
Medicine in the State of Nevada may have been violated.
- K. WHEREAS, in order to resolve the matter prior to it becoming a disciplinary proceeding
and to save further costs and expenses, Dr. Levokove has elected to enter into this

- 1 Agreement to resolve this matter, and this matter only.
- 2 L. WHEREAS, Dr. Levokove acknowledges that once accepted by the Board, this
- 3 Agreement and all associated documentation become a matter of public record (with
- 4 the exception of medical information related to the patient).
- 5 M. WHEREAS, Dr. Levokove has had the opportunity to obtain the advice from competent
- 6 counsel of his choice concerning the terms and conditions of this Agreement and the
- 7 execution thereof. No coercion has been exerted upon Dr. Levokove, nor have any
- 8 promises been made other than those reflected in this Agreement. Dr. Levokove freely
- 9 and voluntarily entered into this agreement, motivated only by a desire to resolve the
- 10 issues addressed herein. Dr. Levokove has executed this Agreement only after a
- 11 careful reading of it and a full understanding of all its terms.
- 12 N. WHEREAS, Dr. Levokove is fully aware of his rights to contest the charges pending
- 13 against him. These rights include: representation by an attorney at his own expense,
- 14 the right to a public hearing on any charges or allegations filed, the right to confront
- 15 and cross-examine witnesses called to testify against him, the right to present evidence
- 16 on his own behalf, the right to compulsory process to secure the attendance of such
- 17 witnesses, the right to testify on his own behalf, the right to receive written findings of
- 18 fact and conclusions of law supporting the decision on the merits of the complaint and
- 19 the right to obtain judicial review of the Board's decision. Should the Board accept this
- 20 Agreement, Dr. Levokove voluntarily waives these rights.
- 21 O. WHEREAS, this Agreement and Order shall be construed in accordance with the laws
- 22 of the State of Nevada.
- 23 P. WHEREAS, this Agreement and Order contains a complete description of the
- 24 agreement between the parties and it supersedes any previous agreements between
- 25 the parties. All material representations, understandings and promises of the parties
- 26 are contained in this Agreement. Any modifications must be set forth in writing, signed
- 27 by all the parties, and approved by the Board.
- 28

III. TERMS OF THE AGREEMENT

- A. Dr. Levokove acknowledges that the failure to report allegations are true, and each such act is a violation of NRS chapter 633 for which discipline is permissible under Nevada law. In exchange for the Board not pursuing an administrative action on either the non-reporting allegations or the inaccurate information allegations, and Dr. Levokove not pursuing subsequent reviews by the appropriate appellate Courts, the parties have agreed to resolve the current matter, and only this matter. Dr. Levokove will henceforth insure that all lawsuits involving him will be timely and accurately reported to the Board, and the failure to do so may result in the Board bringing a disciplinary action against the osteopathic medical license issued by the Board to Dr. Levokove. If any lawsuit is not reported to the Board, such will be in violation of this agreement as well as the applicable statutes. **ADDITIONALLY, THE BOARD ACKNOWLEDGES, AND THE PARTIES DO HEREBY AGREE, THAT A DISCIPLINARY ACTION WILL NOT AND HAS NOT BEEN FILED BY THE BOARD; AND THAT THE PARTIES HAVE SIMPLY AGREED TO AN ADMINISTRATIVE FINE BEING ASSESSED SOLELY TO RESOLVE THE NON-REPORTING ISSUES, I.E., NOT FOR ANY ALLEGATIONS REGARDING UNPROFESSIONAL CONDUCT.**
- B. Dr. Levokove agrees to pay the sum of Seven Hundred, Fifty Dollars (\$750.00) as the fine imposed for having violated NRS 633.527(1) for the failure to timely report the events of the lawsuit. This sum includes all fees and costs incurred by the

1 Board up to and including the approval of this settlement agreement by the Board
2 at its next scheduled board meeting pursuant to NAC 633.470(2)(b)(6). Such
3 amount shall be payable in monthly installments of \$250.00 each with the first
4 payment being due on the 15 day of OCTOBER, 2010, and a like
5 payment being due on the 15 day of each month thereafter until said amount is
6 paid in full.

- 7 C. Should Dr. Levokove fail to satisfy and pay the indebtedness of \$750.00 in a timely
8 manner as discussed herein, Dr. Levokove understands and agrees that he will be
9 considered in default of this Agreement, and this agreement will be null and void,
10 with the Respondent receiving credit for payments made to date. The Board may
11 take whatever action it deems appropriate, including but not limited to reducing the
12 balance to judgment pursuant to NRS chapter 353C.
- 13 D. The Respondent, Dr. Levokove, agrees to bear his own fees and costs, including
14 the fees and expenses of his own attorney(s) if applicable.
- 15 E. This Agreement and Order shall inure to the benefit of and be binding upon each of
16 the parties hereto and their respective heirs, personal representatives, assigns and
17 successors in interest of each party.
- 18 F. This Agreement and Order shall be construed in accordance with the laws of the
19 State of Nevada.
- 20 G. This settlement agreement consists of six (6) pages and embodies the entire
21 agreement between the Board and the osteopathic physician. It may not be
22 altered, amended or modified without the express consent of the parties, and any
23 subsequent alteration, amendment, or modification shall be in writing and subject to
24 approval by the Board.
- 25 H. In consideration for the execution of this Agreement, Dr. Levokove hereby releases
26 and forever discharges the State of Nevada, the Board of Osteopathic Medicine,
27 and the Nevada State Attorney General's Office (as counsel for the Board), and
28 each of their representatives, investigators, and employees, in their individual and
representative capacity (collectively the State of Nevada Agencies) 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, may have had, 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 in this matter, and other matters relating
thereto.
- I. Dr. Levokove, for himself, his heirs, executors, administrators, successors and
assigns, hereby indemnifies and holds harmless the State of Nevada, the Nevada
State Board of Osteopathic Medicine, the Nevada Attorney General's office and
each of their members, agents and employees in their individual and representative
capacities against any and all claims, suits, demands, actions, debts, damages,
costs, charges, and expenses, including court costs and attorney's fees against any
persons or entities as well as all liability, losses, and damages of any nature
whatsoever that the persons and entities named in this paragraph shall have or
may at any time sustain or suffer by reason of this investigation, this settlement or
its administration.
- J. This document may be prepared in multiple counterparts. Each counterpart,
whether it be originally typed, a carbon, photocopy, facsimile or other type of copy,
shall be deemed an original hereof if executed by each of the Parties hereto.

1 K. LASTLY, by executing this agreement, Respondent Physician hereby expressly,
2 knowingly, and intentionally waive the 21-working days notice requirement pursuant
3 to Nevada's Open Meeting Laws and acknowledges that this Agreement shall be on
4 the agenda for the Board's approval in the month of NOVEMBER,
5 2010 and that based upon the payment plan mentioned herein, the Order of
6 Fulfillment shall be on the Board's agenda in the month of JANUARY, 2011.

ZACHARY LEVOKOVE, D.O.
By: [Signature] D.O.
Osteopathic Physician
Dated: September 22, 2010

9 NEVADA STATE BOARD OF
10 OSTEOPATHIC MEDICINE
11 BY: [Signature]
12 Daniel K. Curtis, D.O.
Investigating Board Member

NEVADA STATE BOARD OF
OSTEOPATHIC MEDICINE
By: [Signature]
Dianna Hegeduis, Executive Director -
Board Counsel

13 Dated: 11-2-10

Dated: 11-2-10

16 **ACKNOWLEDGEMENT**

17 On this the 22 day of SEPTEMBER, 2010, the said ZACHARY
18 LEVOKOVE, D.O., personally appeared before me, a notary public, and signed the above
19 document, freely and voluntarily, under no duress.

20 [Signature]
Notary Public

KIM RODGERS
Notary Public - State of New York
No. 01RC8197750
Qualified in Nassau County
My Commission Expires December 8, 2012

23 **ORDER OF THE BOARD**

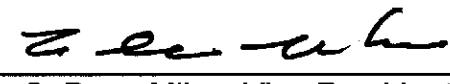
24 **IT IS SO ORDERED.**

25 **IT IS FURTHER ORDERED** that should Dr. Levokove fail to comply with any terms or
26 conditions of this Agreement, Dr. Levokove will be in breach of this Agreement; and this
27 Agreement will be null and void. The Board may take whatever action it deems appropriate,
28

1 including but not limited to proceeding with the administrative action against Dr. Levokove.
2 Should this Agreement become null and void by Dr. Levokove's failure to comply with terms
3 or conditions of this Agreement, the Board may not only pursue an administrative action
4 against Dr. Levokove, but the Board may also seek the maximum fees, fines, and costs.

5 DATED this 2nd day of November, 2010.

6 NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

7
8 BY: 
9 Dr. C. Dean Milne, Vice-President of the
10 Board

Nevada State Board of Osteopathic Medicine
901 American Pacific Drive Unit 180 • Henderson, NV 89014
(702) 732-2147

BEFORE THE NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

IN THE MATTER OF THE COMPLAINT

AGAINST

ZACHARY LEVOKOVE, D.O., Lic. # 943

RESPONDENT.

Case No.: MA1002006

**NV STATE BOARD OF
OSTEOPATHIC MEDICINE**

NOV 03 2010

**NOTICE OF ENTRY OF ORDER
APPROVING SETTLEMENT AGREEMENT**

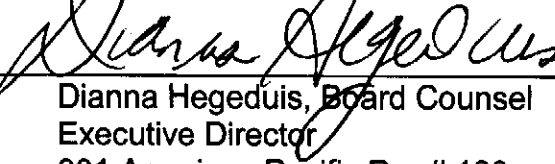
FILED

PLEASE TAKE NOTICE that on the 2nd day of November, 2010, the Nevada State Board of Osteopathic Medicine ("Board") approved the settlement agreement entered into by and between the Respondent Physician and the Board. A file-stamped copy of that agreement with order is attached hereto.

DATED THIS 3rd day of November, 2010.

NEVADA STATE BOARD OF
OSTEOPATHIC MEDICINE

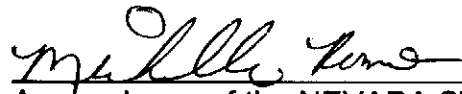
By



Dianna Hegeduis, Board Counsel
Executive Director
901 American Pacific Dr., # 180
Henderson, NV 89014

CERTIFICATE OF MAILING

I hereby certify that on the 3rd day of November, 2010, I served a copy of the foregoing notice, with attached agreement/order upon the respective parties hereto by depositing a true copy thereof in the U.S. mail, postage thereon prepaid, addressed to the parties at their last known address on file with the Board.



An employee of the NEVADA STATE BOARD OF
OSTEOPATHIC MEDICINE