

Nevada State Board of Osteopathic Medicine
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BEFORE THE NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

IN THE MATTER OF THE COMPLAINT
AGAINST
LANCE ALLGOWER, D.O., #1063
RESPONDENT.

Case No. ~~MA090805~~ ^{OCT 05 2008} 05-2880-5

Filed: **FILED**
Dianna Hegeduis
Executive Director

SETTLEMENT AGREEMENT AND ORDER

I. PARTIES

This Settlement Agreement and Order ("Agreement and Order") is made by and between Paul Kalekas, D.O., Investigative Board Member ("Dr. Kalekas" or "Investigative Board Member") for the Nevada State Board of Osteopathic Medicine ("the Board") through the Board's Counsel/Executive Director, Dianna Hegeduis, Esq., and Lance Allgower, D.O. ("Dr. Allgower") (collectively referred to as "the Parties").

II. RECITALS

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

- A. WHEREAS, the Board, through Investigative Board Member Kalekas, ascertained certain information regarding a prior lawsuit filed against Dr. Allgower. The information was ascertained as a result of the Board's staff due diligence in investigating its applicants/licenseses.
- B. WHEREAS, the Investigative Board Member alleged that Dr. Allgower failed to timely report the filing of a lawsuit pertaining to patient L.B. Additionally, such information pertaining to that lawsuit was not disclosed on the licensee's renewal application for 2008, submitted to the Board in November 2007.
- C. The failure to timely report the filing of the lawsuit is a violation of NRS 633.527(1).
- D. NRS 633.527(1) states that an "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 to arbitration or mediation; (c) any settlement, award, judgment or other disposition or any action or claim described in paragraphs (a) or (b) not later than 45 days after the settlement, award, judgment or other disposition; and (d) any sanctions imposed against the osteopathic physician that are reportable to the National Practitioner Data Bank not later than 45 days after the sanctions are imposed. NRS 633.527(2) states that should the Board find "that an osteopathic physician has violated any provision of this section, the Board may impose a fine of not more than \$5,000 against the

1 osteopathic physician **for each violation, in addition to any other fines or penalties**
2 **permitted by law.** (Emphasis added.) This statute was added to the law in 2003.
3 By the use of the word "shall" by the Nevada State Legislature in this statute, the
4 Legislature intended to mandatorily require all osteopathic physicians to report any of
5 the four (4) events mentioned in the statute.

- 6 E. NRS 633.131(1) defines "unprofessional conduct" as including "willfully making a false
7 . . . statement . . . in applying for a license to practice osteopathic medicine or in
8 applying for renewal of a license to practice osteopathic medicine." Pursuant to NRS
9 633.511(1), "unprofessional conduct" is a ground for initiating a formal disciplinary
10 proceeding; and such discipline may include public reprimands, the suspension of the
11 license to practice osteopathic medicine in the State of Nevada, and even the
12 revocation of the license to practice osteopathic medicine in the State of Nevada.
- 13 F. NRS 622.400(1) states that a "regulatory body [such as this Board] may recover from a
14 person reasonable attorney's fees and costs that are incurred by the regulatory body
15 as part of its investigative, administrative and disciplinary proceedings against the
16 person if the regulatory body" either enters a final order or enters into a settlement
17 agreement.
- 18 G. WHEREAS, the parties have agreed to settle this matter, rather than requiring the
19 Board to file a formal disciplinary complaint regarding the failure to timely report and
20 the inaccurate/incomplete application for renewal.
- 21 H. WHEREAS, the parties understand that this Agreement will be signed by the
22 respective parties and will then be offered to the Board for the entire Board's approval
23 at the next Board meeting, with the recommendation of the Investigating Board
24 Member that this matter be settled. The Agreement shall not become effective until it
25 has been approved by a majority of the Board and endorsed by a representative
26 member of the Board.
- 27 I. WHEREAS, Dr. Allgower understands that the Board is free to accept or reject this
28 Agreement and, if rejected by the Board, a formal disciplinary complaint will 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. Allgower
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.
- J. WHEREAS, Dr. Allgower 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.
- K. WHEREAS, Dr. Allgower 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.
- L. WHEREAS, in order to resolve the matter prior to it becoming a disciplinary proceeding
and to save further costs and expenses, Dr. Allgower has elected to enter into this
Agreement to resolve this matter, and this matter only.
- M. WHEREAS, Dr. Allgower acknowledges that once accepted by the Board, this
Agreement and all associated documentation become a matter of public record (with
the exception of medical information related to the patient).
- N. WHEREAS, Dr. Allgower has had the opportunity to obtain the advice from competent
counsel of his choice concerning the terms and conditions of this Agreement and the

1 execution thereof. No coercion has been exerted upon Dr. Allgower, nor have any
2 promises been made other than those reflected in this Agreement. Dr. Allgower freely
3 and voluntarily entered into this agreement, motivated only by a desire to resolve the
4 issues addressed herein. Dr. Allgower has executed this Agreement only after a
5 careful reading of it and a full understanding of all its terms.

- 6 O. WHEREAS, Dr. Allgower is fully aware of his rights to contest the charges pending
7 against him. These rights include: representation by an attorney at his own expense,
8 the right to a public hearing on any charges or allegations filed, the right to confront
9 and cross-examine witnesses called to testify against him, the right to present evidence
10 on his own behalf, the right to compulsory process to secure the attendance of such
11 witnesses, the right to testify on his own behalf, the right to receive written findings of
12 fact and conclusions of law supporting the decision on the merits of the complaint and
13 the right to obtain judicial review of the Board's decision. Should the Board accept this
14 Agreement, Dr. Allgower voluntarily waives these rights.
- 15 P. WHEREAS, this Agreement and Order shall be construed in accordance with the laws
16 of the State of Nevada.
- 17 Q. WHEREAS, this Agreement and Order contains a complete description of the
18 agreement between the parties and it supersedes any previous agreements between
19 the parties. All material representations, understandings and promises of the parties
20 are contained in this Agreement. Any modifications must be set forth in writing, signed
21 by all the parties, and approved by the Board.

22 III. TERMS OF THE AGREEMENT

- 23 A. Dr. Allgower acknowledges that the failure to report allegation pertaining to the
24 lawsuit and the inaccurate/incomplete information contained within the renewal
25 application are true, and each such act is a violation of NRS chapter 633 and
26 discipline is permissible under Nevada law. In exchange for the Board not pursuing
27 an administrative action and Dr. Allgower not pursuing subsequent reviews by the
28 appropriate appellate Courts, the parties have agreed to resolve the current matter,
and only this matter. Dr. Allgower will henceforth insure that all lawsuits involving
himself 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. Allgower. If any lawsuit is not reported
to the Board, such will be in violation of this agreement as well as the applicable
statutes.
- B. Dr. Allgower agrees to pay the sum of One Thousand Two Hundred Dollars
(\$1,200.00) as the fine imposed for having violated NRS 633.527(1) for the failure
to timely report the filing/service of the lawsuit and the filing of the inaccurate
license renewal application. This sum includes all fees and costs incurred by the
Board up to and including the approval of this settlement agreement by the Board
at its next scheduled board meeting pursuant to NAC 633.470(2)(b)(6). Such
amount shall be payable in the amount of \$600.00 per month beginning on the 15th
day of September, 2009, and such amount shall continue to be due thereafter on
the 15th day of each month, until the full amount of One Thousand Two Hundred
Dollars is paid.
- C. Should Dr. Allgower fail to satisfy and pay the indebtedness of \$1,200.00 in a timely
manner as discussed herein, Dr. Allgower understands and agrees that he will be
considered in default of this Agreement, and this agreement will be null and void,
with the Respondent receiving credit for payments made to date. The Board may

PAID IN FULL
Dr. Allgower

1 take whatever action it deems appropriate, including but not limited to reducing the
2 balance to judgment pursuant to NRS chapter 353C.

- 3 D. The Respondent, Dr. Allgower, agrees to bear his own fees and costs, including the
4 fees and expenses of his own attorney(s) if applicable.
- 5 E. This Agreement and Order shall inure to the benefit of and be binding upon each of
6 the parties hereto and their respective heirs, personal representatives, assigns and
7 successors in interest of each party.
- 8 F. This Agreement and Order shall be construed in accordance with the laws of the
9 State of Nevada.
- 10 G. This settlement agreement consists of six (6) pages and embodies the entire
11 agreement between the Board and the osteopathic physician. It may not be
12 altered, amended or modified without the express consent of the parties, and any
13 subsequent alteration, amendment, or modification shall be in writing and subject to
14 approval by the Board.
- 15 H. In consideration for the execution of this Agreement, Dr. Allgower hereby releases
16 and forever discharges the State of Nevada, the Board of Osteopathic Medicine,
17 and the Nevada State Attorney General's Office as counsel for the Board, and each
18 of their representatives, investigators, and employees, in their individual and
19 representative capacity (collectively the State of Nevada Agencies) from any and all
20 manner of actions, causes of actions, suits, debts, judgments, executions, claims,
21 and demands whatsoever known or unknown, in law and in equity, that he may
22 have had, now has, may have had, or claim to have against any and all of the
23 persons and entities named in this paragraph arising out of, or by reason of, the
24 investigation of the allegations raised in this matter, including those noted in the
25 administrative complaint on file herein, and other matters relating thereto.
- 26 I. Dr. Allgower, for himself, his heirs, executors, administrators, successors and
27 assigns, hereby indemnifies and holds harmless the State of Nevada, the Nevada
28 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 disciplinary
action, this settlement or its administration.

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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.

LANCE ALLGOWER, D.O.

Lance Allgower

Osteopathic Physician

Dated: 8/12/09

NEVADA STATE BOARD OF
OSTEOPATHIC MEDICINE

BY: *Paul Kalekas*

Paul Kalekas, D.O.,
Investigating Board Member
Dated: 10/5/09

NEVADA STATE BOARD OF
OSTEOPATHIC MEDICINE

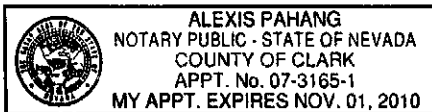
By: *Dianna Hegeduis*

Dianna Hegeduis, Executive Director -
Board Counsel
Dated: 8-18-09

ACKNOWLEDGEMENT

On this the 12th day of AUG, 2009, the said LANCE. ALLGOWER, D.O., personally appeared before me, a notary public, and signed the above document, freely and voluntarily, under no duress.

Alexis Pahang



Notary Public

ORDER OF THE BOARD

IT IS SO ORDERED.

IT IS FURTHER ORDERED that should Dr. Allgower fail to comply with any terms or conditions of this Agreement, Dr. Allgower will be in breach of this Agreement; and this Agreement will be null and void. The Board may take whatever action it deems appropriate, including but not limited to proceeding with the administrative action against Dr. Allgower. Should this Agreement become null and void by Dr. Allgower's failure to comply with terms or

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1 conditions of this Agreement, the Board may not only pursue an administrative action
2 against Dr. Allgower, but the Board may also seek the maximum fees, fines, and costs.

3 DATED this 5 day of Oct, 2009.

4 NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

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6 BY: 
7 Daniel Curtis, D.O., Chairman of the
8 Board