

ORIGINAL

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

IN THE MATTER OF THE COMPLAINT
AGAINST
CHARLES BLOOM, D.O., LIC. #1111,
RESPONDENT.

Case No. 2009-8087

FILED

Filed:
Dianna Hegedus
Executive Director

SETTLEMENT AGREEMENT AND ORDER

I. PARTIES

This Settlement Agreement and Order ("Agreement and Order") is made by and between Rota Rosaschi, MPA, Investigative Board Member ("Ms. Rosaschi" or "Investigative Board Member") for the Nevada State Board of Osteopathic Medicine ("the Board") through the Board's Counsel/Executive Director, Dianna Hegedus, Esq., and Charles Bloom, D.O. ("Dr. Bloom") through his counsel, Nutile Pitz & Associates (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 the Investigative Board Member, ascertained certain information regarding a prior lawsuit filed against Dr. Bloom. The information was ascertained as a result of the Board's staff due diligence in investigating its applicants/licensees.
- B. WHEREAS, the Investigative Board Member alleged that Dr. Bloom failed to timely report a lawsuit being filed regarding a patient with the initials of "A.L." and such failure is a violation of NRS 633.527. Additionally, Dr. Bloom failed to report this lawsuit when renewing his license for the calendar year 2009.
- C. 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

1 this section, the Board may impose a fine of not more than \$5,000 against the
2 osteopathic physician for each violation, in addition to any other fines or penalties
3 permitted by law. (Emphasis added.) This statute was added to the law in 2003. By
4 the use of the word "shall" by the Nevada State Legislature in this statute, the
5 Legislature intended to mandatorily require all osteopathic physicians to report any of
6 the four (4) events mentioned in the statute.

- 7 D. NRS 633.131(1) defines "unprofessional conduct" as including "willfully making a false
8 . . . statement . . . in applying for a license to practice osteopathic medicine or in
9 applying for renewal of a license to practice osteopathic medicine." Pursuant to NRS
10 633.511(1), "unprofessional conduct" is a ground for initiating a formal disciplinary
11 proceeding; and pursuant to NRS 633.651, such discipline may include public
12 reprimands, the suspension of the license to practice osteopathic medicine in the State
13 of Nevada, and even the revocation of the license to practice osteopathic medicine in
14 the State of Nevada.
- 15 E. NRS 622.400(1) states that a "regulatory body [such as this Board] may recover from a
16 person reasonable attorney's fees and costs that are incurred by the regulatory body as
17 part of its investigative, administrative and disciplinary proceedings against the person
18 if the regulatory body" either enters a final order or enters into a settlement agreement.
- 19 F. WHEREAS, the parties have agreed to settle this matter, rather than requiring the
20 Board to file a formal disciplinary complaint.
- 21 G. WHEREAS, the parties understand that this Agreement will be signed by the respective
22 parties and will then be offered to the Board for the entire Board's approval at the next
23 Board meeting, with the recommendation of the Investigating Board Member that this
24 matter be settled. The Agreement shall not become effective until it has been
25 approved by a majority of the Board and endorsed by a representative member of the
26 Board.
- 27 H. WHEREAS, Dr. Bloom 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. Bloom 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. Bloom 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. Bloom 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. Bloom has elected to enter into this
Agreement to resolve this matter, and this matter only.
- L. WHEREAS, Dr. Bloom 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).
- M. WHEREAS, Dr. Bloom 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. Bloom, nor have any
2 promises been made other than those reflected in this Agreement. Dr. Bloom freely and
3 voluntarily entered into this agreement, motivated only by a desire to resolve the issues
4 addressed herein. Dr. Bloom has executed this Agreement only after a careful reading
5 of it and a full understanding of all its terms.

- 6 N. WHEREAS, Dr. Bloom 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 and
9 cross-examine witnesses called to testify against him, the right to present evidence on
10 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. Bloom voluntarily waives these rights.
- 15 O. WHEREAS, this Agreement and Order shall be construed in accordance with the laws
16 of the State of Nevada.
- 17 P. 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. Bloom acknowledges that the failure to timely report allegations are true with
24 respect to the lawsuit filed by patient "A.L.," and such an act (failure to timely report
25 the lawsuit) is a violation of NRS chapter 633 and discipline is permissible under
26 Nevada law. In exchange for the Board not pursuing an administrative action
27 against Dr. Bloom for the alleged inaccurate information contained within the
28 renewal application and the untimely reporting, and Dr. Bloom not pursuing
subsequent reviews by the appropriate appellate Courts, the parties have agreed to
resolve the current matter, and only this matter. Dr. Bloom 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. Bloom. 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
FOR THE NON-REPORTING VIOLATION, I.E., NOT FOR ANY ALLEGATIONS
REGARDING UNPROFESSIONAL CONDUCT AND/OR REGARDING THE
PHYSICIAN'S COMPETENCY.**
- B. Dr. Bloom agrees to pay the sum of Five Hundred Dollars (\$500.00) as the fine
imposed for having violated NRS 633.527(1) for the failure to timely report the
filing/service of the lawsuit. 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 \$ _____ per month beginning on the ____ day

PAID IN FULL
11-2-09
[Signature]

of _____, 2009, and such amount shall continue to be due thereafter on the _____ day of each month, until the full amount of Five Hundred Dollars is paid.

- C. Should Dr. Bloom fail to satisfy and pay the indebtedness of \$500.00 in a timely manner as discussed herein, Dr. Bloom 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 take whatever action it deems appropriate, including but not limited to reducing the balance to judgment pursuant to NRS chapter 353C.
- D. The Respondent, Dr. Bloom, agrees to bear his own fees and costs, including the fees and expenses of his own attorney(s) if applicable.
- E. This Agreement and Order shall inure to the benefit of and be binding upon each of the parties hereto and their respective heirs, personal representatives, assigns and successors in interest of each party.
- F. This Agreement and Order shall be construed in accordance with the laws of the State of Nevada.
- G. This settlement agreement consists of six (6) pages and embodies the entire agreement between the Board and the osteopathic physician. It may not be altered, amended or modified without the express consent of the parties, and any subsequent alteration, amendment, or modification shall be in writing and subject to approval by the Board.
- H. In consideration for the execution of this Agreement, Dr. Bloom hereby releases and forever discharges the State of Nevada, the Board of Osteopathic Medicine, and the Nevada State Attorney General's Office (as counsel for the Board), and 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, including those noted in the administrative complaint on file herein, and other matters relating thereto.
- I. Dr. Bloom, 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 disciplinary action, 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.

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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, 2009.

5 CHARLES BLOOM, D.O.

NUTILE PITZ & ASSOCIATES

Charles Bloom

Maria Nutile

6 Osteopathic Physician

By Maria Nutile, Esq.

7 Dated: 10/27/09

Dated: 10/27/09

8 NEVADA STATE BOARD OF
9 OSTEOPATHIC MEDICINE

NEVADA STATE BOARD OF
OSTEOPATHIC MEDICINE

10 BY: _____

By _____

11 Rota Rosaschi, MPA
12 Investigating Board Member

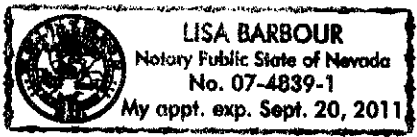
Dianna Hegeduis, Executive Director -
Board Counsel

13 Dated: _____

Dated: _____

14
15 **ACKNOWLEDGEMENT**

16 On this the 27th day of October, 2009, the said CHARLES BLOOM, D.O.,
17 personally appeared before me, a notary public, and signed the above document, freely and
18 voluntarily, and under no duress.



Lisa Barbour
20 Notary Public

21
22 **ORDER OF THE BOARD**

23 **IT IS SO ORDERED.**


24
25 **IT IS FURTHER ORDERED** that should Dr. Bloom fail to comply with any terms or
26 conditions of this Agreement, Dr. Bloom 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

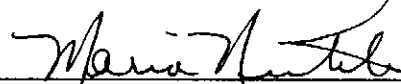
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K. LASTLY, by executing this agreement, Respondent Physician hereby expressly, knowingly, and intentionally waive the 21-working days notice requirement pursuant to Nevada's Open Meeting Laws and acknowledges that this Agreement shall be on the agenda for the Board's approval in the month of November, 2009.

CHARLES BLOOM, D.O.

NUTILE PITZ & ASSOCIATES



By 

Osteopathic Physician

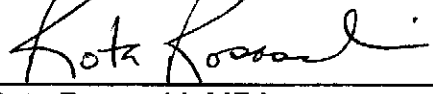
Maria Nutile, Esq.


Dated: 10/27/09

Dated: 10/27/09

NEVADA STATE BOARD OF
OSTEOPATHIC MEDICINE

NEVADA STATE BOARD OF
OSTEOPATHIC MEDICINE

BY: 

By 

Rota Rosaschi, MPA
Investigating Board Member

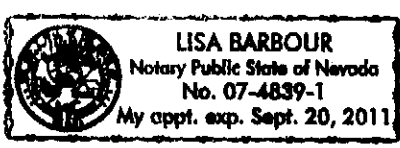
Dianna Hegeduis, Executive Director -
Board Counsel


Dated: 10/28/09

Dated: 11-2-09

ACKNOWLEDGEMENT

On this the 27th day of October, 2009, the said CHARLES BLOOM, D.O., personally appeared before me, a notary public, and signed the above document, freely and voluntarily, and under no duress.




Notary Public

ORDER OF THE BOARD

IT IS SO ORDERED.

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

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

5 DATED this 2nd day of November, 2009.

6 NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

7
8 BY: 
9 Dr. Daniel Curtis, Chairman/President of the
10 Board