

**ORIGINAL**

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

IN THE MATTER OF THE COMPLAINT

AGAINST

JAMES DANIEL CARPENTER, D.O.,

RESPONDENT.

Case No. ~~FAD-08-0800~~ 8

Filed: **FILED**

*Deputy* *Barker Lopez*  
Executive Director

**SETTLEMENT AGREEMENT AND ORDER**

**I. PARTIES**

This Settlement Agreement and Order ("Agreement and Order") is made by and between Paul J. Kalekas, D.O., Investigative Board Member ("Dr. Kalekas" or "Investigative Board Member") for the Nevada State Board of Osteopathic Medicine ("the Board") through their counsel, Dianna Hegeduis, Sr. Deputy Attorney General, of the Nevada Attorney General's Office and James Daniel Carpenter, D.O. ("Dr. Carpenter") (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 Dr. Kalekas filed a complaint ("Complaint") in this action. The Complaint resulted from the Board's staff due diligence in investigating its applicants/licensee, and certain information came to light regarding a prior lawsuit and a license revocation.
- B. WHEREAS, the Investigative Board Member alleged that Dr. Carpenter failed to report a lawsuit regarding Israel Bari, as more fully described in the complaint on file herein, and such was a violation of NRS 633.527. The Investigative Board Member further alleged that Dr. Carpenter incorrectly responded to questions on the license renewal application concerning the lawsuit. Pursuant to NRS 633.741, it is a Category D felony for providing false and/or forged documents to the Board; and by failing to report the lawsuit and answering in the negative on the applications, each such act is a Category D felony. Additionally, Dr. Carpenter failed to inform the Board that his license had been revoked in Ohio. The failure to report violations carry potential fines of up to \$5,000 per violation.
- C. WHEREAS, the parties have agreed to settle this matter as described herein and the previously scheduled Hearing will be cancelled upon the execution of this Agreement by Dr. Carpenter.
- D. WHEREAS, the parties understand that this Agreement will be signed by the respective parties and will then be offered to the Board for the entire Board's approval at the

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Board meeting in February 2009, 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.

- E. WHEREAS, Dr. Carpenter understands that the Board is free to accept or reject this Agreement and, if rejected by the Board, a formal disciplinary hearing on the complaint against Dr. Carpenter may be rescheduled. 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. Carpenter 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.
- F. WHEREAS, Dr. Carpenter 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.
- G. WHEREAS, Dr. Carpenter 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. Dr. Carpenter agrees to abide by all rules governing the practice of osteopathic medicine in Nevada.
- H. WHEREAS, in order to resolve the matter of disciplinary proceedings and to save further costs and expenses, Dr. Carpenter has elected to enter into this Agreement.
- I. WHEREAS, Dr. Carpenter acknowledges that once accepted by the Board, this Agreement and all associated documentation become a matter of public record.
- J. WHEREAS, Dr. Carpenter has had the opportunity to obtain the advice from competent counsel of his choice concerning the terms and conditions of this Agreement and the execution thereof. No coercion has been exerted upon Dr. Carpenter, nor have any promises been made other than those reflected in this Agreement. Dr. Carpenter freely and voluntarily entered into this agreement, motivated only by a desire to resolve the issues addressed herein. Dr. Carpenter has executed this Agreement only after a careful reading of it and a full understanding of all its terms.
- K. WHEREAS, Dr. Carpenter is fully aware of his rights to contest the charges pending against him. These rights include: representation by an attorney at his own expense, the right to a public hearing on any charges or allegations filed, the right to confront and cross-examine witnesses called to testify against him, the right to present evidence on his own behalf, the right to compulsory process to secure the attendance of such witnesses, the right to testify on his own behalf, the right to receive written findings of fact and conclusions of law supporting the decision on the merits of the complaint and the right to obtain judicial review of the Board's decision. Should the Board accept this Agreement, Dr. Carpenter voluntarily waives these rights.
- L. WHEREAS, this Agreement and Order shall be construed in accordance with the laws of the State of Nevada.
- M. WHEREAS, this Agreement and Order contains a complete description of the agreement between the parties and it supersedes any previous agreements between the parties. All material representations, understandings and promises of the parties are contained in this Agreement. Any modifications must be set forth in writing, signed by all the parties, and approved by the Board.

1 **III. TERMS OF THE AGREEMENT**

- 2 A. Dr. Carpenter acknowledges that if such allegations were true, after proven at an  
3 administrative hearing and reviewed by the appropriate Courts, each such act would  
4 be a violation of NRS chapter 633 and substantial discipline would be warranted. In  
5 exchange for the Board not pursuing the administrative action and Dr. Carpenter not  
6 pursuing subsequent reviews by the appropriate appellate Courts, the parties have  
7 agreed to resolve the current Complaint. Dr. Carpenter will henceforth insure that  
8 all lawsuits involving himself will be timely and accurately reported to the Board, and  
9 the failure to do so will result in the Board bringing an action to revoke the  
10 osteopathic medical license issued by the Board to Dr. Carpenter. If any lawsuit is  
11 not reported to the Board, such will be in violation of this agreement as well as the  
12 applicable statutes.
- 13 B. Dr. Carpenter agrees to pay the sum of Five Thousand Dollars (\$5,000.00) as fines  
14 and/or penalties for not reporting the lawsuit and the license revocation. The  
15 amount of \$3,000 shall be paid by February 15, 2009, as it is expected that the  
16 Board will vote on this Settlement Agreement at its Board meeting scheduled for  
17 February 3, 2009. Dr. Carpenter also agrees to pay the additional sum of \$750.00  
18 as attorney's fees and costs incurred in the prosecution of this action pursuant to  
19 NAC 633.470. The balance due and owing on the fines/penalties and the attorney's  
20 fees and costs shall be payable to the Board in full by April 3, 2009.
- 21 C. Should Dr. Carpenter fail to satisfy and pay the indebtedness described above in a  
22 timely manner as discussed herein, Dr. Carpenter understands and agrees that he  
23 will be considered in default of this Agreement, and this agreement will be null and  
24 void, with the Respondent receiving credit for payments made to date. The Board  
25 may take whatever action it deems appropriate, including but not limited to reducing  
26 the balance to judgment pursuant to NRS chapter 353C.
- 27 D. Should Dr. Carpenter fail to satisfy and pay the indebtedness described in  
28 Paragraph B of the Terms of the Agreement in a timely manner as discussed  
herein, Dr. Carpenter understands and agrees that the Board may pursue the  
remaining allegations set forth in the complaint against him.
- E. The Respondent, Dr. Carpenter, agrees to bear his own fees and costs, including  
the fees and expenses of his own attorney(s) if applicable.
- F. 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.
- G. This Agreement and Order shall be construed in accordance with the laws of the  
State of Nevada.
- H. This settlement agreement consists of five (5) pages and embodies the entire  
agreement between the Board and the Respondent. 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.
- I. In consideration for the execution of this Agreement, Dr. Carpenter hereby releases  
and forever discharges the State of Nevada, the Board of Osteopathic Medicine,  
and the Nevada State Attorney General's Office, 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

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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.

J. Dr. Carpenter, 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.

K. 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.

JAMES DANIEL CARPENTER, D.O.

Respondent \_\_\_\_\_  
Dated: 1/6/09

NEVADA STATE BOARD OF  
OSTEOPATHIC MEDICINE  
BY: Paul J. Kalekas, D.O.  
Paul J. Kalekas, D.O.,  
Investigating Board Member  
Dated: 1-6-09

CATHERINE CORTEZ MASTO  
Attorney General  
By: Dianna Hegeduis  
Dianna Hegeduis, Sr. Deputy Attorney General  
Counsel for the Investigating Board Member  
Dated: 1-6-09

**ORDER OF THE BOARD**

**IT IS SO ORDERED.**


**IT IS FURTHER ORDERED** that should Dr. Carpenter fail to comply with any terms or conditions of this Agreement, Dr. Carpenter 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. Carpenter. Should this Agreement become null and void by Dr. Carpenter's failure to comply with terms

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

3 DATED this 3 day of February, 2009.

4 NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

5  
6 BY:   
7 Dr. Daniel K. Curtis, Chairman of the  
8 Board

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