

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

2   IN THE MATTER OF THE COMPLAINT                    }

3   AGAINST  
4   MELISSA CHINN, D.O.,  
5   License No. 1166,

6                   RESPONDENT.                    }

Case No.: MA0912001

**NV STATE BOARD OF  
Filed: OSTEOPATHIC MEDICINE**

MAR 03 2010

7                   **SETTLEMENT AGREEMENT AND ORDER**

**FILED**

8                   **I. PARTIES**

9                   This Settlement Agreement and Order ("Agreement and Order") is made by and  
10                  between S. Paul Edwards, Esq., Investigative Board Member ("Mr. Edwards" or "Investigative  
11                  Board Member") for the Nevada State Board of Osteopathic Medicine ("the Board") through  
12                  the Board's Counsel/Executive Director, Dianna Hegeduis, Esq., and Melissa Chinn, D.O.  
13                  ("Dr. Chinn") (collectively referred to as "the Parties").

14                  **II. RECITALS**

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

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- 17                  A. WHEREAS, the Board, through Investigative Board Member, ascertained certain  
18                  information regarding a prior lawsuit filed against Dr. Chinn. The information was  
19                  ascertained as a result of the Board's staff due diligence in investigating its  
20                  applicants/licenseses.
- 21                  B. WHEREAS, the Investigative Board Member ("IBM") has alleged as follows:  
22                  (1) Respondent failed to timely report the actions by the Washington State licensing  
23                  Board, which action was a reportable event to the National Practitioner Data Bank.  
24                  (2) Respondent failed to also mention this action in Respondent's renewal application  
25                  for 2009, submitted in 2008. The IBM has alleged all such failures are violations of  
26                  NRS chapter 633 as discussed hereinafter.
- 27                  C. NRS 633.527(1) states that a licensed "osteopathic physician **shall report** to the  
28                  Board: (a) any action for malpractice against the osteopathic physician not later than 45  
29                  days after the osteopathic physician receives service of a summons and complaint for  
30                  the action; (b) any claim for malpractice against the osteopathic physician that is  
31                  submitted to arbitration or mediation not later than 45 days after the claim is submitted  
32                  to arbitration or mediation; (c) any settlement, award, judgment or other disposition or  
33                  any action or claim described in paragraphs (a) or (b) not later than 45 days after the  
34                  settlement, award, judgment or other disposition; and (d) **any sanctions imposed**  
35                  **against the osteopathic physician that are reportable to the National Practitioner**  
36                  **Data Bank** not later than 45 days after the sanctions are imposed. NRS 633.527(2)  
37                  states that should the Board find "that an osteopathic physician has violated any

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

- 7
- 8 D. NRS 633.131(1) defines "unprofessional conduct" as including "willfully making a false  
9 . . . statement . . . in applying for a license to practice osteopathic medicine or in  
10 applying for renewal of a license to practice osteopathic medicine." Pursuant to NRS  
11 633.511(1), "unprofessional conduct" is a ground for initiating a formal disciplinary  
12 proceeding; and such discipline may include public reprimands, the suspension or  
13 revocation of the license to practice osteopathic medicine in the State of Nevada, and  
14 an assessment of a fine not to exceed \$5,000 per violation.
- 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. Chinn understands that the Board is free to accept or reject this  
28 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. Chinn hereby  
agrees to waive any rights she 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. Chinn 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. Chinn 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. Chinn has elected to enter into this  
Agreement to resolve this matter, and this matter only.
- L. WHEREAS, Dr. Chinn 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. Chinn has had the opportunity to obtain the advice from competent  
counsel of her choice concerning the terms and conditions of this Agreement and the  
execution thereof. No coercion has been exerted upon Dr. Chinn, nor have any

1 promises been made other than those reflected in this Agreement. Dr. Chinn freely and  
2 voluntarily entered into this agreement, motivated only by a desire to resolve the issues  
3 addressed herein. Dr. Chinn has executed this Agreement only after a careful reading  
4 of it and a full understanding of all its terms.

5 N. WHEREAS, Dr. Chinn is fully aware of her rights to contest the charges pending  
6 against him. These rights include: representation by an attorney at her own expense,  
7 the right to a public hearing on any charges or allegations filed, the right to confront and  
8 cross-examine witnesses called to testify against her, the right to present evidence on  
9 her own behalf, the right to compulsory process to secure the attendance of such  
10 witnesses, the right to testify on her own behalf, the right to receive written findings of  
11 fact and conclusions of law supporting the decision on the merits of the complaint and  
12 the right to obtain judicial review of the Board's decision. Should the Board accept this  
13 Agreement, Dr. Chinn voluntarily waives these rights.

14 O. WHEREAS, this Agreement and Order shall be construed in accordance with the laws  
15 of the State of Nevada.

16 P. WHEREAS, this Agreement and Order contains a complete description of the  
17 agreement between the parties and it supersedes any previous agreements between  
18 the parties. All material representations, understandings and promises of the parties  
19 are contained in this Agreement. Any modifications must be set forth in writing, signed  
20 by all the parties, and approved by the Board.

### 21 III. TERMS OF THE AGREEMENT

22 A. Dr. Chinn acknowledges that the failure to report allegations are true, and each  
23 such failure to timely report is a violation of NRS chapter 633 and discipline is  
24 permissible under Nevada law. In exchange for the Board not pursuing an  
25 administrative action and Dr. Chinn not pursuing subsequent reviews by the  
26 appropriate appellate Courts, the parties have agreed to resolve the current matter,  
27 and only this matter. Dr. Chinn will henceforth insure that all lawsuits involving her  
28 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. Chinn. 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 FOR THE  
NON-REPORTING VIOLATION, I.E., NOT FOR ANY ALLEGATIONS  
REGARDING UNPROFESSIONAL CONDUCT AND/OR REGARDING THE  
PHYSICIAN'S COMPETENCY.**

B. Dr. Chinn 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  
settlement 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 monthly installments of \$ \_\_\_\_\_ each with the first payment  
being due on the \_\_\_\_\_ day of \_\_\_\_\_, 2010, and a like payment  
being due on the \_\_\_\_\_ day of each month thereafter until said amount is paid in  
full.

- 1 C. Should Dr. Chinn fail to satisfy and pay the indebtedness of \$750.00 in a timely  
2 manner as discussed herein, Dr. Chinn understands and agrees that she will be  
3 considered in default of this Agreement, and this agreement will be null and void,  
4 with the Respondent receiving credit for payments made to date. The Board may  
5 take whatever action it deems appropriate, including but not limited to reducing the  
6 balance to judgment pursuant to NRS chapter 353C.
- 7 D. The Respondent, Dr. Chinn, agrees to bear her own fees and costs, including the  
8 fees and expenses of her own attorney(s) if applicable.
- 9 E. This Agreement and Order shall inure to the benefit of and be binding upon each of  
10 the parties hereto and their respective heirs, personal representatives, assigns and  
11 successors in interest of each party.
- 12 F. This Agreement and Order shall be construed in accordance with the laws of the  
13 State of Nevada.
- 14 G. This settlement agreement consists of six (6) pages and embodies the entire  
15 agreement between the Board and the osteopathic physician. It may not be altered,  
16 amended or modified without the express consent of the parties, and any  
17 subsequent alteration, amendment, or modification shall be in writing and subject to  
18 approval by the Board.
- 19 H. In consideration for the execution of this Agreement, Dr. Chinn hereby releases and  
20 forever discharges the State of Nevada, the Board of Osteopathic Medicine, and the  
21 Nevada State Attorney General's Office (as counsel for the Board), and each of  
22 their representatives, investigators, and employees, in their individual and  
23 representative capacity (collectively the State of Nevada Agencies) from any and all  
24 manner of actions, causes of actions, suits, debts, judgments, executions, claims,  
25 and demands whatsoever known or unknown, in law and in equity, that he may  
26 have had, now has, may have had, or claim to have against any and all of the  
27 persons and entities named in this paragraph arising out of, or by reason of, the  
28 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. Chinn, 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.

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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 MARCH,  
5 2010.

6 MELISSA CHINN, D.O.

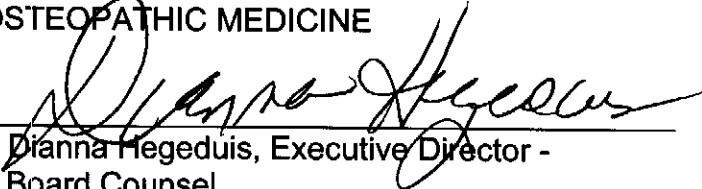
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8 \_\_\_\_\_  
9 Osteopathic Physician

10 Dated: 2/12/10

11 NEVADA STATE BOARD OF  
12 OSTEOPATHIC MEDICINE

13 NEVADA STATE BOARD OF  
14 OSTEOPATHIC MEDICINE

15 BY: \_\_\_\_\_  
16 S. Paul Edwards, Esq.  
17 Investigating Board Member

18 By   
19 Dianna Hegeduis, Executive Director -  
20 Board Counsel

21 Dated: \_\_\_\_\_

22 Dated: 2-16-2010

23 **ACKNOWLEDGEMENT**

24 On this the 12 day of FEBRUARY, 2010, the said MELISSA CHINN,  
25 D.O., personally appeared before me, a notary public, and signed the above document, freely  
26 and voluntarily, under no duress.

27   
28 Notary Public

CARLA T. SASSE-ANDA  
EXP 5-1-11



29 **ORDER OF THE BOARD**

30 **IT IS SO ORDERED.**

31 **IT IS FURTHER ORDERED** that should Dr. Chinn fail to comply with any terms or  
32 conditions of this Agreement, Dr. Chinn will be in breach of this Agreement; and this  
33 Agreement will be null and void. The Board may take whatever action it deems appropriate,  
34

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  
the agenda for the Board's approval in the month of \_\_\_\_\_,  
2010.

4 MELISSA CHINN, D.O.

5 \_\_\_\_\_  
6 Osteopathic Physician

7 Dated: \_\_\_\_\_

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9 NEVADA STATE BOARD OF  
10 OSTEOPATHIC MEDICINE

NEVADA STATE BOARD OF  
OSTEOPATHIC MEDICINE

11 BY: S. Paul Edwards  
12 S. Paul Edwards, Esq.  
Investigating Board Member

By \_\_\_\_\_  
Dianna Hegeduis, Executive Director -  
Board Counsel

13 Dated: 2/27/2010

Dated: \_\_\_\_\_

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16 **ACKNOWLEDGEMENT**

17 On this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the said MELISSA CHINN,  
18 D.O., personally appeared before me, a notary public, and signed the above document, freely  
19 and voluntarily, under no duress.

20 \_\_\_\_\_  
21 Notary Public

22  
23 **ORDER OF THE BOARD**

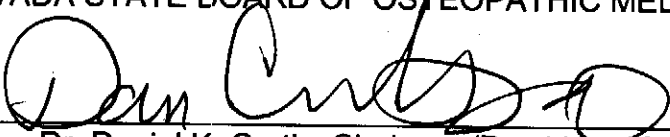
24 **IT IS SO ORDERED.**

25 **IT IS FURTHER ORDERED** that should Dr. Chinn fail to comply with any terms or  
26 conditions of this Agreement, Dr. Chinn 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. Chinn.  
2 Should this Agreement become null and void by Dr. Chinn's failure to comply with terms or  
3 conditions of this Agreement, the Board may not only pursue an administrative action against  
4 Dr. Chinn, but the Board may also seek the maximum fees, fines, and costs.

5 DATED this 2nd day of March 2010.

6 NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

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

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