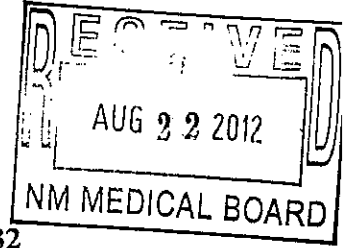


BEFORE THE NEW MEXICO MEDICAL BOARD

IN THE MATTER OF)
DAVID DURHAM, M.D.)
)
License No. 2008-0595)
)
Respondent.)

No. 2012-032



NOTICE OF CONTEMPLATED ACTION

YOU ARE HEREBY NOTIFIED that pursuant to provisions of §61-1-4 NMSA 1978 of the Uniform Licensing Act (“ULA”), the New Mexico Medical Board ("Board") has before it sufficient evidence that, if not rebutted or explained, will justify the Medical Board imposing sanctions that could include restricting, revoking or suspending your license to practice medicine in the State of New Mexico.

1. Respondent is subject to action by the Board pursuant to Sections 61-1-1 et seq. NMSA 1978 of the Uniform Licensing Act and Sections 61-6-1 et seq., NMSA 1978 of the Medical Practice Act.

2. This contemplated action is based on the following allegations:

A. At various times during 2009, 2010 and 2011, Respondent has treated numerous patients for chronic pain with opiates, including methadone, morphine, oxycodone, as well as amphetamines that deviated from the standard of care required of physicians through the injudicious prescribing of medication. Furthermore, Respondent has prescribed such medications to poor candidates for such treatment, failing to make a reasonable assessment of his patients’ behavioral and medical histories, and ignoring his patients’ abuse of narcotics and diversion of narcotics both prior to and while in the care of Respondent.

The above allegations, if proven, would constitute a violation of Section 61-6-15(D)(26) of the Medical Practice Act, “injudicious prescribing, administering or dispensing of a drug or medicine;” and NMAC 16.10.8.8(D), “excessive prescribing or administering of

drugs,” promulgated by the Board pursuant to such Act, and constitute grounds for action against Respondent’s license.

B. At various times during 2009, 2010 and 2011, Respondent has treated one or more patients for opiate addiction using methadone without proper U.S.D.E.A. licensure. Respondent also took possession of some portion of his patients’ prescribed medications and subsequently re-dispensed them to those patients.

These allegation, if proven would constitute a violation of Section 16.10.8.8(C) of the Rules promulgated by the Board pursuant to the Act, violation of a drug or narcotic law.

C. During the practices described in A and B, above, Respondent failed to maintain or keep adequate, legible, accurate or complete medical records. This allegation, if proven, would constitute a violation of Section 61-6-15(D)(33) of the Medical Practice Act. In an attempt to conceal such failure, and in response to the investigation of Board staff, Respondent has generated medical documentation using a computer program. This allegation, if proven would constitute a violation of Section 61-6-15(D)(18), “conduct likely to deceive, defraud or harm the public.”

D. Respondent forged prescriptions for controlled substances for himself. This allegation, if proven, would be a violation of NMSA 1978 §61-6-15(D) (26), injudicious prescribing; of NMAC 16.10.8.9 and of NMSA 1978 §61-6-15(D) (29), unprofessional or dishonorable conduct, and of NMSA 1978 §61-6-15(D)(10), impersonating another licensee.

3. Please take notice that pursuant to §61-1-4, you may secure a hearing before the Board by depositing in the mail within twenty (20) days after service of this notice a certified return receipt requested letter addressed to the Board and containing a request for a hearing. If you do not request a hearing within twenty (20) days after service of this notice as described above, the Board

will take the contemplated action, i.e., imposing sanctions that could include the revocation or suspension of your license to practice medicine in the State of New Mexico, and there will be no judicial review of their decision.

4. Pursuant to §61-1-8 NMSA 1978, you have the right to be represented by counsel or by a licensed member of your profession or both, and to present all relevant evidence by means of witnesses, books, papers, documents and other evidence; to examine all opposing witnesses who may appear on any matter relevant to the issues and have subpoenas duces tecum issued as of right prior to the commencement of the hearing, to compel the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making a written request therefore to the Board. The issuance of such subpoenas after commencement of the hearing rests with the discretion of the Board or Hearing Officer.

Dated this 22nd day of August, 2012.

NEW MEXICO MEDICAL BOARD

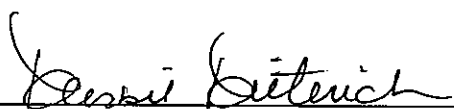


Lynn Hart, Executive Director
NM Medical Board
2055 S. Pacheco, #400
Santa Fe, New Mexico 87505
(505) 476-7220

CERTIFICATE OF SERVICE

I hereby certify that on August 23, 2012, a true and correct copy of the Notice of Contemplated Action was served on Respondent, at the address below, via certified mail, return receipt requested:

David Durham, M.D.
1961 Hollyhock Circle
Farmington, New Mexico 87401



(signed)