



BEFORE THE NEW MEXICO MEDICAL BOARD

IN THE MATTER OF)
PAMELA JO COSTELLO, M.D.)
)
License No. MD2009-0520)
)
Respondent.)
_____)

Case No. 2017-013

DENIAL OF MOTION TO DISMISS NCA BASED ON STATUTE OF LIMITATIONS
AND ORDER DISMISSING NOTICE OF CONTEMPLATED ACTION

This matter came before the New Mexico Medical Board (“Board”), on June 29, 2017, for decision and order on Respondent’s Motion to Dismiss Notice of Contemplated Action based on a statute of limitations issue, filed on May 16, 2017, and the Prosecutor’s Response in Opposition to Respondent’s Motion to dismiss the Notice of Contemplated Action filed June 2, 2017. Respondent also filed a second motion titled Respondent’s Motion to Dismiss the Notice of Contemplated Action in the Interests of Justice. The Board declined to rule on the latter motion, but did rule on Respondent’s Motion to Dismiss the Notice of Contemplated Action filed May 16, 2017.

A quorum of the Board voted to **DENY** Respondent’s Motion to Dismiss the Notice of Contemplated Action filed May 16, 2017, ruling that a valid waiver of the Statute of Limitation had been effectuated by Respondent.

Sua Sponte, the Board voted to dismiss the Notice of Contemplated Action, thereby dismissing the case. Therefore, Case 2017-013 is **DISMISSED**.

IT IS SO ORDERED.



Steve Jenkusky, M.D., Chair
New Mexico Medical Board



BEFORE THE NEW MEXICO MEDICAL BOARD

IN THE MATTER OF)
PAMELA JO COSTELLO, M.D.)
)
License No. MD2009-0520)
)
Respondent.)
_____)

Case No. 2016-7-013

TO: Pamela Jo Costello, M.D.
11000 Spain Rd. NE
Building A
Albuquerque, New Mexico 87111

CC: Krehbiel & Barnett PC
Lorri Krehbiel, Esq.
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Albuquerque, New Mexico 87111
Email: lkrehbiel@lady-justice.us
Attorneys for Respondent

NOTICE OF CONTEMPLATED ACTION

YOU ARE HEREBY NOTIFIED that pursuant to provisions of NMSA 1978, Section 61-1-4 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 NMMB imposing sanctions that could include restricting, revoking or suspending your license to practice medicine in the State of New Mexico. In support therefore, the Board alleges as follows:

1. You were issued a license to practice medicine in the State of New Mexico (License No. MD2009-0520) on or about July 23, 2009 and you are, therefore, subject to the Board’s jurisdiction pursuant to provisions of the ULA and the Medical Practice Act (“MPA”), Chapter 61, Article 6, NMSA 1978.
2. This Notice of Contemplated Action (“NCA”) is based on the following allegations:
 - a. You advertise yourself as a “holistic neurological medicine” practitioner.
 - b. You have stated in printed media the following:

“...I’ve always been plagued by the limited scope and high side-effect or toxic profile of allopathic medications. I’ve struggled with following AMA guidelines

and to following the “standard of care” while working in the hospital....”

“I use Byron White Formulas almost exclusively to treat my patients, including his A-Inflam for standard inflammatory conditions, as well as his detoxifying line of remedies and his sophisticated line of Lyme-related remedies. Envi-Rad and A-Inflam are probably my two most utilized agents. Detoxifying the nervous system, while balancing immune function, lends to a rather rapid response in improving or correcting neuroimmunologic dysfunction and disease states.”

- c. In 2013 and 2014, you saw a patient (Patient MR) who your records reflect was initially evaluated for “severe chemical sensitivity secondary to chronic environmental neurotoxicity....”
 - d. You had Patient MR sign a form which stated:

I understand fully that Dr. Costello may recommend treatments including medications, injections, herbs, homeopathic remedies or intravenous vitamin therapy which may not be fully supported by the FDA, or for which clinical indications have not yet been proven.”
 - e. You prescribed to Patient MR a variety of proprietary formulations that are branded and marketed as “Byron White Formulas” (the “health-related products”) including but not limited to the health-related products called “Envi-Rad” and “A-Inflam.”
 - f. You sold the health-related products which you prescribed to Patient MR from your office claiming that they would serve to benefit Patient MR’s health or otherwise treat certain of her medical conditions.
 - g. Patient MR later became suspicious that you were only interested in selling certain health-related products from your office and discontinued treatment with you.
 - h. Patient MR requested medical records from your office, but they were not produced to the patient in a timely manner.
3. The allegations set forth in paragraph 2 above, if proven, would constitute violations of the following provisions:

- a. NMSA 1978, Section 61-6-15(D)(9), making false or misleading statements regarding the skill of the licensee or the efficacy or value of the medicine, treatment or remedy prescribed or administered by the licensee or at the direction of the licensee in the treatment of a disease or other condition of the human body or mind;
 - b. NMSA 1978, Section 61-6-15(D)(13), manifest incapacity or incompetence to practice as a licensee;
 - c. NMSA 1978, Section 61-6-15(D)(15), the use of a false, fraudulent or deceptive statement in a document connected with the practice of a licensee;
 - d. Section 6-6-15(D)(18), conduct likely to deceive, defraud or harm the public;
 - e. Section 6-6-15(D)(29), conduct unbecoming in a person licensed to practice or detrimental to the best interests of the public;
 - f. NMSA 1978, Section 61-6-15(D)(34), failure to provide pertinent and necessary medical records to a physician or patient of the physician in a timely manner when legally requested to do so by the patient or by a legally designated representative of the patient;
 - g. Provisions of the Code of Medical Ethics of the American Medical Association as adopted by the Board at Rule 16.10.8.9 NMAC, including but not limited to Opinion 8.06 / 9.6.6 concerning "Prescribing and Dispensing Drugs and Devices;" and/or
 - h. Provisions of the Code of Medical Ethics of the American Medical Association as adopted by the Board at Rule 16.10.8.9 NMAC, including but not limited to Opinion 8.063 / 9.6.4 concerning "Sale of Health-Related Products from Physicians' Offices."
4. Please take notice that pursuant to NMSA 1978, Section 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, including retroactive revocation or suspension, and there will be no judicial review of their decision.

5. Pursuant to NMSA 1978, Section 61-1-8, 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.

6. The issuance of this Notice of Contemplated Action is not a disciplinary event reportable to any data bank but is a public document open to public inspection.

7. In the event that the Board takes a final action against you as specified in NMSA 1978, Section 61-1-3, you shall bear all costs of disciplinary proceedings pursuant to NMSA 1978, Section 61-1-4(G) unless excused by the Board.

Dated this 14th day of March 2017.

NEW MEXICO MEDICAL BOARD



Sondra Frank, Executive Director
New Mexico Medical Board
2055 South Pacheco Street, Building 400

Santa Fe, New Mexico 87505
Tel: 505-476-7220

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Notice of Contemplated Action was sent to the parties of record this 15th day of March 2017 as follows:

VIA CERTIFIED MAIL/RR REQUESTED:

Pamela Jo Costello, M.D.
11000 Spain Road NE
Building A
Albuquerque, New Mexico 87111

Krehbiel & Barnett PC
Lorri Krehbiel, Esq.
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VIA HAND DELIVERY:

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