



BEFORE THE NEW MEXICO MEDICAL BOARD

IN THE MATTER OF)
PHILIP S. MILSTEIN, M.D.)
)
License No. 92-310)
)
Respondent.)
)

Case No. 2016-028

STIPULATED ORDER AND REPRIMAND

This matter, having come before the New Mexico Medical Board ("Board") on the motion of the Administrative Prosecutor concerning the respondent Phillip S. Milstein, M.D., the Board, after reading the stipulated Order and Reprimand proposed, and after having been fully advised, hereby finds and orders as follows:

STIPULATED FINDINGS OF FACT

1. Respondent is subject to the jurisdiction of the Board pursuant to the Medical Practice Act, NMSA 1978, Chapter 61, Article 6 ("MPA"), the Uniform Licensing Act, NMSA 1978, Chapter 61, Article 1 ("ULA"), and certain Board-promulgated rules and regulations, Title 16, Chapter 10, NMAC.
2. The Board is currently investigating Respondent for alleged violations of:
 - a. NMSA 1978, Section 61-6-15(D)(26), injudicious prescribing, administering or dispensing of a drug or medicine;
 - b. NMSA 1978, Section 61-6-15(D)(33), improper management of medical records, including failure to maintain timely, accurate, legible and complete medical records;
 and/or

c. 16.10.8.8(C) NMAC, violating a narcotic or drug law.

3. At the Board's May 2016 quarterly meeting, the Board endorsed a complaint committee's recommendation that Respondent be offered an opportunity to resolve these allegations by accepting a formal reprimand from the Board and successfully completing a CME course on prescribing controlled substances.

4. By signing this document below, Respondent acknowledges that sufficient evidence exists for the Board to find that Respondent's conduct violated NMSA 1978, Section 61-6-15(D)(26), Section 61-6-15(D)(33) and 16.10.8.8(C) NMAC.

5. Respondent agrees to (a) accept a formal reprimand from the Board, and (b) to successfully complete a 3 day course offered by The Center for Professional Education for Physicians ("CPEP") called "Prescribing Controlled Drugs: Critical Issues and Common Pitfalls".

6. The Board has authority to enter this Order pursuant to NMSA 1978, Section 61-6-15(A) and 16.10.5.15 NMAC.

7. In order for the Board to have adequate time to consider this proposed settlement, Respondent waives the right to have this matter heard and decided within the time frames set by the ULA, and also waives the time limitations for the Board to bring an action against Respondent as set forth in the ULA at NMSA 1978, Section 6-1-3.1 and/or in the MPA at NMSA 1978, Section 6-6-24.

8. Respondent knows and understands the applicable statutory and regulatory provisions setting forth the authority and power of the Board. Respondent further understands that this

proposed Order, if accepted, results in a waiver of his rights under the ULA, the MPA, and/or the Impaired Health Care Provider Act, including the right to a hearing and to appeal.

9. Respondent knows and understands his right to consult with an attorney and Respondent's signature below signifies that Respondent has either consulted with an attorney or that Respondent knowingly and voluntarily waives his right to counsel.

10. By signing this Order, Respondent agrees with the foregoing findings of fact and submits to the Board's imposition of sanction, discipline, terms and conditions as described herein.

11. Respondent authorizes CPEP to release to the New Mexico Medical Board any and all information received by CPEP including, but not limited to, notes, reports, plans, evaluations, notes, and correspondence during the time Respondent is licensed to practice in the State of New Mexico. Respondent also authorizes CPEP to provide information to the Board upon its request regarding Respondent's participation in CPEP educational and monitoring programs. Such information shall only be made available to the Board and its agents and shall not be released to any other person(s) or entity(ies) except as specifically authorized by Respondent in writing or as required by law. This authorization shall continue in full force and effect during all times that Respondent is licensed to practice medicine in the State of New Mexico and Respondent shall not revoke such authorization; any failure by Respondent to execute documents required by CPEP to effect the release of information to the Board shall constitute a violation of this Order.

12. By signing this Order, Respondent confirms that he understands that this matter will be reported to the National Practitioner Data Bank.

¹ Course offered December 9-11, 2016 in Denver, Colorado.

13. The terms set forth in this Order are in the best interest of the public's health, safety and welfare.

14. The terms set forth in this Order are unique to the evidence in this matter, and shall have no precedential or binding effect on other Board proceedings.

15. This Order reflects a negotiated settlement, and in the event that the Board does not approve the Order in its entirety and without modification, this Stipulation of Licensure and Order shall be deemed withdrawn as of the date of any order rejecting the document as proposed.

STIPULATED CONCLUSIONS OF LAW

16. The Board has jurisdiction over the Respondent and the subject matter hereof, and has authority to enter into this Stipulation of Licensure and Order.

17. Pursuant to this stipulation between Respondent and the Board, the Board concludes that Respondent's conduct violated NMSA 1978, Section 61-6-15(D)(26), Section 61-6-15(D)(33) and 16.10.8.8(C) NMAC and that such violations constitute good cause for imposition of discipline against Respondent.

ORDER

A. Respondent is hereby REPRIMANDED for violating NMSA 1978, Section 61-6-15(D)(26), Section 61-6-15(D)(33) and 16.10.8.8(C) NMAC.

B. Respondent shall successfully complete a 3-day course offered by CPEP called "Prescribing Controlled Drugs: Critical Issues and Common Pitfalls" within six (6) months of the effective date of this order.

C. Respondent shall provide, or cause CPEP to provide, a copy of all CPEP reports,

assessments and recommendations concerning the Respondent's participation with CPEP activities to the Board.

D. All CPEP recommendations, determinations and instructions consistent with this Order shall constitute terms of this Order and any failure by Respondent to comply with such CPEP recommendations, determinations and instructions shall constitute a violation of this Order.

E. Respondent agrees to appear before the Board at the Board's request.

F. Respondent shall comply with the MPA, Board rules, and all other laws applicable to the practice of medicine.

G. Respondent shall comply with the MPA, Board rules, and all other laws applicable to the practice of medicine, and shall not engage in any conduct as defined in 6.10.8.8(K) NMAC.

H. This Order, and any subsequent Board order enforcing this Order, will be reported to the National Practitioners Data Bank and is a public document open to public inspection.

I. The conditions and terms set forth in this Order, if approved by the Board, remain in full force and effect unless and until removed or amended in writing by the Board.

(Signature page follows)

RESPONDENT

Philip S. Milstein, M.D.
Philip S. Milstein, M.D.

ACKNOWLEDGEMENT FOR SIGNATURE OF RESPONDENT

The foregoing was acknowledged before me this 27 day of June 2016 by
Philip S. Milstein, M.D. in the County of Santa Fe New Mexico

[Signature]
NOTARY PUBLIC

My Commission Expires 2/9/2020



OFFICIAL SEAL
Rebecca Roibal
NOTARY PUBLIC-State of New Mexico
My Commission Expires 2/9/2020

The foregoing Stipulation of Licensure and Order is approved and made immediately
effective on this 28 day of June 2016.

NEW MEXICO MEDICAL BOARD

By: [Signature]
Steven M. Jenkusky, M.D., Chair