

BEFORE THE NEW MEXICO MEDICAL BOARD

IN THE MATTER OF)
Richard B. Smith, M.D.)
Medical License #77-104)
)
Respondent)

Case No. 2012-031

STIPULATION OF LICENSURE

THIS Stipulation of Licensure is between Richard B. Smith, M.D. ("Respondent") and the New Mexico Medical Board ("Board").

Respondent is subject to the jurisdiction of the Board pursuant to the Medical Practice Act, NMSA 1978, §§ 61-6-1 through -35; the Impaired Health Care Provider Act, §§ 61-7-1 through -12; and the New Mexico Medical Board rules and regulations, Title 16, Chapter 10, NMAC.

THIS MATTER came before the Board on August 9, 2012 upon the recommendation that Respondent be monitored by the New Mexico Monitored Treatment Program ("MTP").

WHEREAS the Board has determined that Respondent is safe to practice medicine if under the care of a monitored treatment program;

WHEREAS, in order to assist Respondent in his continued rehabilitation, Respondent shall be on probation with the following terms and conditions:

1. Respondent shall abstain completely from the use of mind-altering substances, controlled substances or alcoholic beverages except as legitimately prescribed by a licensed physician;
2. Respondent shall enter into a treatment contract with, and as determined by, the Monitored Treatment Program and shall comply fully with the recommendations, terms and conditions required of Respondent by the Monitored Treatment Program;

3. If the Board is notified that Respondent has violated any of the Monitored Treatment Program contract terms, the Board shall constitute it as a violation of this Agreement;

4. Respondent hereby waives any right to confidentiality he may have with respect to information gathered by the Monitored Treatment Program with regard to the Board's access to Monitored Treatment Program information. Respondent hereby authorizes the Monitored Treatment Program to release any and all information to the Board; and

5. Respondent shall appear before the Board on a quarterly basis or upon the Board's request;

6. Respondent shall submit quarterly reports to the Board attesting to his compliance with this stipulation. Such quarterly reports shall be on a form provided by Board staff and sent to Respondent;

7. Respondent shall, at all times, comply with all federal, state and local laws and all rules governing the practice of medicine;

8. If the Board has reasonable cause to believe that Respondent has violated any of the terms of this stipulation, the Board may immediately and summarily suspend his license to practice as a physician in New Mexico pursuant to Subsection C of 16.10.5.15 NMAC. A breach of any term of this stipulation shall constitute conduct unbecoming in a person licensed to practice medicine as set forth in NMSA 1978, § 61-6-15(D)(29). The Board shall issue a Summary Suspension and Notice of Contemplated Action, and Respondent will be entitled to a formal hearing on the Notice in accordance with the Uniform Licensing Act, NMSA 1978, §§ 61-1-1 through -33.

9. Respondent understands that this stipulation is made pursuant to NMSA 1978, § 61-6-15(B), and Board Rule 16.10.5.15 NMAC. Respondent further understands that entering into this

stipulation results in a waiver of his rights under the Uniform Licensing Act, Medical Practice Act, and the Impaired Health Care Provider Act, including the right to appeal and any claim he may have regarding these matters;

10. WHEREAS 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 Respondent waives his right to counsel.

11. Respondent understands that this stipulation will be reported to the National Practitioners Data Bank and Healthcare Integrity and Protection Data Bank;


12. The conditions and terms set forth in this stipulation will remain in effect unless and until removed or amended by the Board.

13. This stipulation incorporates any and all agreements, covenants and understandings between Parties. No prior agreement or understanding, verbal or otherwise of the Parties or their agents or assignees shall be valid or enforceable unless embodied in this Stipulation.


IT IS SO STIPULATED BY Richard B. Smith, M.D., Respondent, and the New Mexico Medical Board.

New Mexico Medical Board

Dated: 9.7.12


Steven Weiner, M.D. Chair

Dated: 8-30-12


Richard B. Smith, M.D., Respondent



New Mexico Medical Board
2055 S. Pacheco Street
Building 400
Santa Fe, NM 87505
505-476-7220 505-476-7233 fax

Bill Richardson
Governor

Steven Weiner, M.D.
Chair

February 23, 2010

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Richard Smith, M.D.
9434 Rio Grande NW
Albuquerque, NM 87114

RE: Richard Smith, MD, License No. 77-104
Complaint Case #2009-D-128

**LETTER OF REPRIMAND
2010-005**

Dear Dr. Smith:

On February 18, 2010, the New Mexico Medical Board (Board) reviewed complaint case #2009-D-128. On the recommendation of the complaint committee, the Board decided to close the case by offering you a formal letter of reprimand. The Board issues this formal reprimand based on the following allegation, discovered by the Board on or about July 6, 2009:

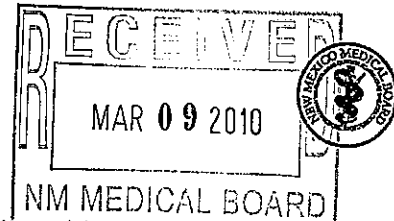
1. You falsified medical records by fraudulently documenting a patient evaluation that did not actually take place.

This allegation, if proven, would be a violation of the Medical Practice Act, NMSA 1978, § 61-6-15(D)(33), improper management of medical records, including failure to maintain timely, accurate, legible and complete medical records.

This is a serious allegation, and the Medical Board expects that you will give thoughtful and deliberate consideration regarding the creation and maintenance of medical records in the future.

If you accept this formal reprimand, you are agreeing to voluntarily waive your right to a Notice of Contemplated Action and your right to a formal hearing before the Board pursuant to the Uniform Licensing Act, NMSA 1978, §§ 61-1-3, 61-1-4 and 61-1-8. A

Richard Smith, M.D.
February 23, 2010
Page 2



formal reprimand and will be reported to the National Practitioners Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB).

If you do not accept this formal reprimand, the Board may initiate formal disciplinary proceedings by issuance of a Notice of Contemplated Action pursuant to the Uniform Licensing Act, NMSA 1978, § 61-1-4(D). The Board urges you to seek the advice of an attorney in reaching your decision.

Please indicate if you accept the formal reprimand by signing below, and then return the original copy to me. Be certain to keep a copy for yourself. If you choose not to accept the reprimand, please write "refused" in the space below. In either case, respond no later than **March 16, 2010**. Please don't hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Lynn S. Hart".

Lynn S. Hart
Executive Director

**ACCEPTANCE OF FORMAL REPRIMAND AND
WAIVER OF RIGHTS TO NOTICE AND HEARING**

I HEREBY ACCEPT A FORMAL REPRIMAND AND KNOWINGLY, VOLUNTARILY AND INTELLIGENTLY WAIVE MY RIGHTS TO A NOTICE OF THE CHARGES AND HEARING BEFORE THE NEW MEXICO MEDICAL BOARD.

Signed: Richard B. Smith Date: 03-08, 2010
Richard B. Smith, M.D., Lic No. 77-104