

**BEFORE THE NEW MEXICO MEDICAL BOARD**



IN THE MATTER OF )  
ROY HEILBRON, M.D. )  
 )  
License: MD 2006-0145 )  
 )  
Respondent. )  
\_\_\_\_\_ )

Case No. 2015-029

**STIPULATION AND ORDER**

By mutual agreement and understanding between the New Mexico Medical Board ("Board") and the above-named respondent Roy Heilbron, M.D. ("Respondent"), the parties having agreed to dispose of this matter according to the terms set forth in this Stipulation and Order ("Order"), the Board hereby finds and orders as follows:

**FINDINGS OF FACT**

1. The Board initially granted Respondent a license to practice medicine in the State of New Mexico in 2006. Having been so licensed, 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"), the Impaired Health Care Provider Act, NMSA 1978, Chapter 61, Article 7 ("IHCPA"), and certain Board-promulgated rules and regulations, Title 16, Chapter 10, NMAC ("Rules").
2. On November 6, 2015 the Board issued a Notice of Contemplated Action ("NCA") to Respondent alleging various violations of the MPA, the Rules, and the Code of Medical Ethics of the American Medical Association. On the same day, the Board issued a Notice of Summary Suspension ("NSS") to Respondent alleging that he presented a clear and immediate danger to the public health and safety if he continued to practice medicine.
3. Respondent made timely requests for hearings on the NSS and NCA, and then subsequently



made written waivers of his right to hearing within the timeframes established by the ULA at Section 61-1-4 and the MPA at Section 61-6-15.1.

4. An evidentiary hearing on the NSS was held on December 22, 2015 before a Board-appointed hearing officer.
5. On February 19, 2016, the Board issued a Decision and Order finding and concluding that Respondent presented a clear and immediate danger to the public health and safety if he continued to practice medicine, and thereupon, the Board ordered that Respondent's license to practice medicine in the State of New Mexico remain suspended pending final resolution of the allegations set forth in the NCA.
6. On March 14, 2016, an Amended Notice of Contemplated Action ("Amended NCA") was issued to Respondent alleging various violations of the MPA, the Rules, and the Code of Medical Ethics of the American Medical Association.
7. Respondent subsequently filed another written waiver of his right to hearing on the Amended NCA within the timeframe described at Section 61-1-4, NMSA 1978 of the ULA.
8. A hearing on the Amended NCA is presently scheduled to commence on December 6, 2016.
9. At this time, Respondent's license to practice medicine in the State of New Mexico has been suspended for over one year.
10. For purposes of this administrative proceeding only, and solely to avoid further litigation of the allegations set forth in the Amended NCA, Respondent does not contest the allegations set forth in the Amended NCA.
11. For the purposes of settling the allegations set forth in the Amended NCA, Respondent agrees to accept imposition of the following discipline restricting his licensure as a physician in New

**Mexico:**

a. Respondent's license shall be subject to an additional 30-day term of suspension commencing on the day after this order is approved by the Board;

b. Upon the termination of the 30-day term of suspension referenced in this paragraph, Respondent's license shall be immediately placed on "inactive" status in accordance with 16.10.7.13(A) NMAC;

c. Respondent shall be subject to a permanent restriction, imposed by the Board, precluding Respondent's reinstatement, renewal, restoration, or re-application for any active license to practice medicine in the State of New Mexico; and

d. Respondent shall be restricted from attempting to practice medicine in any setting where such practice is based on his having an "inactive" New Mexico medical license.

12. By signing this Order:

a. Respondent confirms that he has received all notice required by law, and all jurisdictional requirements have been satisfied.

b. Respondent acknowledges reading and understanding the contents of this document.

c. Respondent agrees to abide by the terms and conditions described herein.

d. Respondent confirms that he understands the applicable statutory and regulatory provisions setting forth the authority and power of the Board relevant to this Order, and that if this proposed Order is accepted by the Board, such acceptance results in a waiver of Respondent's rights under the Rules, the ULA, MPA, and/or the IHCPA relating to this Order, including the right to a hearing on this Order and the right to appeal this Order.

e. Respondent 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.

f. Respondent agrees with the findings and conclusions set forth herein, and Respondent submits to the terms and conditions described herein.

g. Respondent understands that this Order will not become effective until approved by the Board.

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

i. Respondent understands that this Order contains the entire agreement of the parties hereto, and that there is no other agreement of any kind, verbal, written or otherwise.

j. Respondent stipulates and agrees that if the Board accepts and approves the terms of this Order, that any failure by Respondent to comply with the Order shall constitute unprofessional or dishonorable conduct as defined in the MPA and/or the Rules.

k. Respondent asks the Board to accept and approve this Order of his own free will, knowingly and voluntarily.

l. Respondent stipulates and agrees that avoidance of further litigation and prompt resolution of this matter is valuable consideration for Respondent to waive his right to an evidentiary hearing on the Amended NCA.

#### **STIPULATED CONCLUSIONS OF LAW**

Pursuant to the above Stipulated Findings of Fact, the Board concludes as follows:

13. Respondent is subject to the jurisdiction of the Board pursuant to the MPA, the ULA, the

IHCPA, and the Board's Rules.

14. The Board has authority to enter into this Stipulation and Order.

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

16. By virtue of Respondent not contesting the allegations set forth in the NCA, the Board concludes that they true as a matter of law, and that imposition of discipline as described herein is appropriate under the circumstances.

### **ORDER**

Pursuant to the foregoing Stipulated Findings of Fact and Stipulated Conclusions of Law, the New Mexico Medical Board ORDERS that:

- A. Respondent's license, which has been continuously suspended since November 2015, is hereby suspended for an additional 30-day period commencing the day after this Order is approved by the Board.
- B. Upon expiration of the additional 30-day period of suspension, the license issued to Respondent shall immediately and automatically be placed on "inactive" status.
- C. Respondent is permanently restricted from seeking to reinstate, renew, restore, or re-apply for any license to practice medicine in the State of New Mexico at any time in the future.
- D. Respondent is restricted from, and shall not attempt engaging in, the practice medicine in any setting where such practice is based on his holding an "inactive" New Mexico medical license.
- E. Respondent shall comply fully with the requirements of 16.10.17.9 NMAC. Respondent shall ensure that each patient seen by Respondent since November 1, 2012 in New Mexico is afforded written notice via First Class U.S. Mail or electronic mail that:

- i. Respondent has custody and control of the patients' medical records; and
  - ii. Upon a written request from a patient, the records (or copies) will be sent by certified mail or courier to the requesting patient, to another physician, or to an entity of the requesting patient's choice.
- F. In the event Respondent still holds either a U.S. Drug Enforcement Agency or a New Mexico Board of Pharmacy registration/certificate, Respondent shall advise those agencies of this Order in writing and shall surrender all controlled substance prescribing privileges (e.g. registration or certificate) for the State of New Mexico to such agency within 30 days of the effective date of this Order.
- G. Respondent shall keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board. Respondent may not utilize a post office box as an address of record.
- H. Respondent shall appear before the Board upon the Board's request.
- I. If the Board has reasonable cause to believe that Respondent has violated any of the terms of this Order, the Board may immediately and summarily suspend Respondent's license to practice medicine in New Mexico pursuant to 16.10.5.15(C) NMAC. A breach of any term of this Order 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, within 10 days of a summary suspension, issue a Notice of Contemplated Action, and Respondent will be entitled to a formal hearing on the Notice in accordance with the ULA.
- J. Respondent shall personally ensure that the Board is supplied with any and all documents

that the Board, in its sole discretion, deems satisfactory evidence of Respondent's compliance with this Order.

K. The Board expressly reserves the right to take further action against Respondent for any act of unprofessional or dishonorable conduct, or any act otherwise proscribed by law, which is not specifically referenced in the Amended NCA.

L. This Order is a public document available for public inspection, and it shall be reported to the National Practitioners Data Bank, the Federation of State Medical Boards, and the American Medical Association.

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

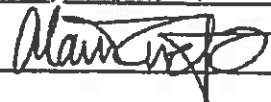
N. The conditions and terms set forth in this Order shall remain in effect unless and until removed or amended by a separate written order of the Board.

**AGREED AND ACCEPTED BY RESPONDENT:**

  
\_\_\_\_\_  
Roy Heilbron, M.D.

The foregoing was acknowledged before me this 16 day of November 2016 by Roy Heilbron, M.D. in the County of Miami Dade, Florida.

Commission expires: 02/03/18


Signed:  Notary Public

[NOTARY SEAL]

Approved:



ALAIN CUETO  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# FF089324  
Expires 2/3/2018

  
\_\_\_\_\_  
Kate Ferlic, Esq.  
Attorney for Respondent

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**REVIEWED, APPROVED AND SO ORDERED BY THE BOARD:**

The foregoing Stipulation and Order is approved and made immediately effective on this  
26 day of January 2016.

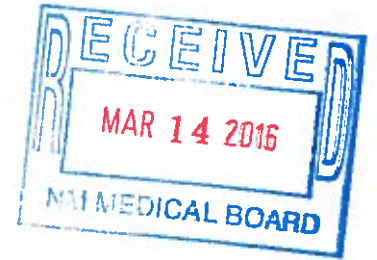
**NEW MEXICO MEDICAL BOARD**

By:   
\_\_\_\_\_  
Steve Jenkusky, M.D.  
Chair

Rule 11-400 Protected



**BEFORE THE NEW MEXICO MEDICAL BOARD**



**IN THE MATTER OF** )  
**ROY HEILBRON, M.D.** )  
 )  
**License: MD 2006-0145** )  
 )  
**Respondent.** )  
\_\_\_\_\_ )

**Case No. 2015-029**

**AMENDED NOTICE OF CONTEMPLATED ACTION**

YOU ARE HEREBY NOTIFIED that pursuant to provisions of Section 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. You are subject to action by the Board pursuant to the ULA and Sections 61-6-1 et seq., NMSA 1978 of the Medical Practice Act (“MPA”).

2. This Notice of Contemplated Action (“NCA”) is based on the following allegations:

A. The Board learned that you saw a patient on or about September 29, 2014 who presented complaining of tightness in the chest. You administered a stress test, EKG, echocardiogram and ordered a 24-hour halter monitor to monitor cardiac activity. After allegedly reviewing the results of the aforementioned tests, you advised the patient that the left branch of the patient’s coronary artery was 70% occluded and urged the patient to immediately submit to a variety of treatments in your office including “enhanced external counterpulsation” (“EECP”) and exercise with oxygen treatment (“EWOT”) as frequently as 5 times

per week. You informed the patient that these courses of treatment would dissolve the plaque in the patient's artery and stimulate the growth of new branches of cardiac artery. You further explained that you do not accept insurance, and that each individual treatment session would cost the patient \$125.00. You prescribed aspirin, Labetalol for high blood pressure, and nitroglycerine – even though the patient did not have chest pain; you also counseled the patient to purchase several supplements and home-diagnostic kits from your office – which the patient did purchase.

B. The patient obtained a second opinion from another cardiologist and learned that the tests and treatments ordered by you were not consistent with currently accepted consensus guidelines for treatment of the conditions you purportedly diagnosed in the patient. Subsequent testing of the patient's cardiac functioning revealed a strong, well-functioning heart.

C. An investigation conducted by the Board's Staff found that you failed to maintain accurate and complete medical records on the patient in question in a manner consistent with currently accepted standards.

D. It is also noted that the conduct described above is similar to conduct that the Board disciplined you for in 2014. As part of the discipline imposed in 2014, the Board required you to take a medical record-keeping course and an ethics course. At this time, in light of the foregoing, it appears that you may require additional training in the areas of medical record-keeping and medical ethics.

E. On or about January 1, 2015 and again on or about February 3, 2015, Respondent divulged confidential patient medical information to American

Express without the patient's prior written consent.

3. The allegations set forth in paragraphs 2(A) and 2(E) above, if proven, would violate provisions of the MPA including the following:

- A. NMSA 1978, Section 61-6-15(D)(5), willfully or negligently divulging a professional confidence;
- B. Section 6-6-15(D)(9), making false or misleading statements regarding the... efficacy or value of the medicine, treatment or remedy prescribed or administered by the licensee;
- C. Section 6-6-15(D)(13), manifest incapacity or incompetence to practice as a licensee);
- D. Section 6-6-15(D)(15), the use of a false, fraudulent or deceptive statement in a document connected with the practice of a licensee;
- E. Section 6-6-15(D)(18), conduct likely to deceive, defraud or harm the public;
- F. Section 6-6-15(D)(20), employing abusive billing practices;
- G. Section 6-6-15(D)(29), conduct unbecoming in a person licensed to practice or detrimental to the best interests of the public;
- H. Section 6-6-15(D)(33), improper management of medical records, including failure to maintain timely, accurate, legible and complete medical records;
- I. Section 6-6-15(D)(38), willfully or negligently divulging privileged information or a professional secret;
- J. Breach of the "Code of Medical Ethics of the America Medical

Association” (the “Code of Ethics”), Opinion 8.063 concerning the “Sale of Health-Related Products from Physician’s Office” as adopted by the Board at Rule 16.10.8.9 NMAC; and/or

K. The Code of Ethics, Principles of Medical Ethics, Principle IV that states “[a] physician shall respect the rights of patients, colleagues, and other health professionals, and shall safeguard patient confidences and privacy within the constraints of the law.” and/or

L. The Code of Ethics, Opinions on Physician Records, Section 7.02 that “[t]he record is a confidential document involving the patient-physician relationship and should not be communicated to a third party without the patient’s prior written consent, unless required by law or to protect the welfare of the individual or the community.”

4. Take notice that pursuant to Section 61-1-4, NMSA 1978 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.

5. Pursuant to Section 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.

6. The issuance of this NCA 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 Section 61-1-3, NMSA 1978, you shall bear all costs of disciplinary proceedings pursuant to Section 61-1-4(G), NMSA 1978 unless excused by the Board.

Dated this 14<sup>th</sup> day of March, 2016.

NEW MEXICO MEDICAL BOARD



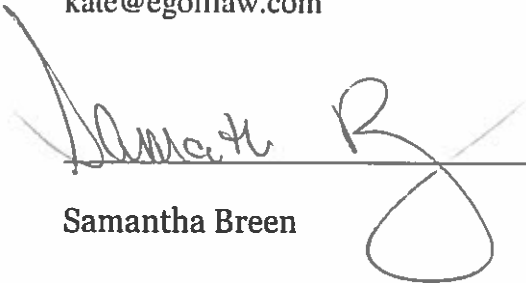
Sondra Frank, Executive Director  
2055 South Pacheco Street  
Building 400  
Santa Fe, New Mexico 87505  
Tel: 505-476-7220

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the Amended Notice of Contemplated Action was sent to Respondent's Counsel via Certified Return Receipt USPS and electronic mail on March 14, 2016.

Kate Ferlic, Esq.  
123 W. San Francisco Street  
Suite 200  
Santa Fe, NM 87501

kate@egolflaw.com

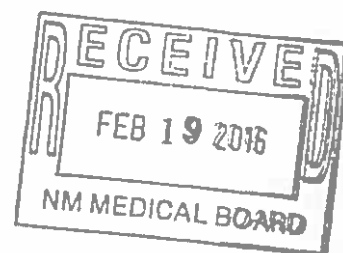
  
Samantha Breen

BEFORE THE NEW MEXICO MEDICAL BOARD

IN THE MATTER OF  
ROY HEILBRON, M.D.

License No. 2006-0145

No. 2015-029



Respondent.

DECISION AND ORDER

This matter came before the New Mexico Medical Board (Board) for consideration on February 4, 2016. The Board being fully informed in the premises, having reviewed the entire record on review, finds and orders:

1. A notice of Summary Suspension was issued by the Board on December 11, 2015.
2. A formal hearing was held on the suspension on December 22, 2015.
3. A hearing officer report was filed with the Board on January 21, 2016
4. The full Board met on February 4, 2016 and found the Hearing Officer report to be well taken and adopts it in full.
5. The Hearing Officer report is attached and incorporated into this order.
6. Respondent Roy Heilbron M. D., presents a clear and immediate danger to the public health and safety if he continues to practice.

Wherefore, Respondent's suspension shall remain in place until further order of the Board.

February, 19 2016.

A handwritten signature in black ink, appearing to read "Steven Jenkusky", written over a horizontal line.

Steven Jenkusky, M.D.  
Chairman New Mexico Medical Board

BEFORE THE NEW MEXICO BOARD



IN THE MATTER OF  
ROY HEILBRON, MD,

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No. 2015-029

License No. 2006-0145

Respondent.

**HEARING OFFICER'S REPORT  
FINDINGS OF FACT AND CONCLUSIONS OF LAW**

A formal hearing in the matter of the Summary Suspension of Roy Heilbron, MD was held on December 22 , 2015 at the New Mexico Medical Board, 2055 South Pacheco, Building 400, Santa Fe, New Mexico before Monica Ontiveros, Hearing Officer. Roy Heilbron, MD ("Respondent") was represented by Katherine M. Ferlic, Esq. of the Egolf, Ferric & Day LLC firm. The administrative prosecutor ("Prosecution") for the New Mexico Medical Board ("Board") was Thomas W. Banner, Esq. Dr. Adam P. Ronan testified on behalf of the Prosecution. Dr. Orlando Santana testified via FaceTime on behalf of Respondent and Respondent testified on his own behalf.<sup>1</sup> The exhibits introduced into the record are Exhibits 1-9 and A-D<sup>2</sup>, with only an objection as to Exhibit D. Both parties submitted closing arguments on January 8, 2016. A verbatim record of the proceedings was taken by Debra Ann Frieze, certified

<sup>1</sup> Prosecution objected to Dr. Santana testifying via FaceTime because no one within the state of Florida provided the oath to Dr. Santana. The Hearing Officer overruled the objection but required Dr. Santana to provide a copy of his driver's license via fax.

<sup>2</sup> At the beginning of his testimony, Dr. Santana showed everyone in attendance via FaceTime his driver's license [Tr. 134, lines 17-20]. Dr. Santana was required to fax a copy of his driver's license to the Medical Board to be included in the record. At the time the transcript was prepared, Dr. Santana had not produced a copy of his driver's license.



court reporter. The hearing was conducted pursuant to and in accordance with the Uniform Licensing Act, Sections 61-1-1 through 61-1-33 and the Medical Practice Act, Sections 61-6-1 through 61-6-35, and all corresponding regulations.

### ***CONTENTS OF ADMINISTRATIVE FILE***

In addition to the pleadings and filings referenced in the Findings of Fact, the record also consists of the following: 1) Notice of Summary Suspension; 2) (First) Notice of Hearing on Summary Suspension; 3) Waiver of Right to Hearing Within 15-Days on Notice of Summary Suspension; 4) Joint Motion to Vacate and Reset Hearing; 5) Order Vacating Hearing; 6) Request for Discovery; 7) (Second) Notice of Hearing on Summary Suspension; 8) Motion for Entry of Stipulated Protective Order; 9) Stipulated Confidentiality Order; 10) Respondent Roy Heilbron Witness List; 11) Confidentiality Agreement; 12) Joint Motion for Extension of Time to File Written Closing Arguments; and 13) Order on Joint Motion for Extension of Time to File Written Closing Arguments.

Based on the evidence and the arguments presented, the Hearing Officer makes the following Findings of Fact and Conclusions of Law:

### **FINDINGS OF FACT**

#### ***JURISDICTION***

1. A Notice of Summary Suspension, setting out four factual allegations, alleging that summary suspension was proper and in accordance with NMSA 1978, Section 61-6-15.1 (2008) was timely filed and served on Respondent by the Board on November 6, 2015. [Ex. 1].
2. Respondent requested a hearing and the request was filed with the Board on November 30, 2015. The request for hearing is dated November 22, 2015. Administrative File.

3. Respondent's license to practice as a physician was suspended on or about November 6, 2015. [Ex. 1].

4. The Board issued a Notice of Hearing on Summary Suspension on December 3, 2015 setting the matter for hearing on December 8, 2015.

5. A Joint Motion to Vacate and Reset the Hearing was filed on December 7, 2015 and the Motion was granted.

6. A second Notice of Hearing on Summary Suspension was issued by the Board on December 11, 2015 setting the hearing for December 22, 2015 in Santa Fe, New Mexico.

7. A full evidentiary hearing was held on December 22, 2015.

***NOTICE OF SUMMARY SUSPENSION***

8. The Notice of Summary Suspension alleged that Respondent posed a clear and immediate danger to the public health and safety if he continued to practice medicine because:

A. the tests and treatments ordered by Respondent were not consistent with currently accepted consensus guidelines for treatment;

B. failed to maintain accurate and complete medical records on a patient, (referred to in this Report as "patient LL") in a manner consistent with currently accepted standards; and

C. Respondent was disciplined by the Board for similar conduct in 2014.

***A. INCONSISTENT TREATMENT WITH CURRENTLY ACCEPTED CONSENSUS GUIDELINES FOR TREATMENT***

9. Respondent attended the Universidad Central del Este Medical School in the Dominican Republic and graduated in 1997. [Tr. 208, lines 16-22; Tr. 209, lines 6-8].

10. He completed his internship at the University of Alabama and his residency at Mount Sinai Medical Center, Miami Beach. [Tr. 179, lines 17-21].

11. Respondent spent three years specializing in cardiology at Mount Sinai Medical Center, Miami Beach. [Tr. 209, lines 4-6].

12. Respondent was board certified in internal medicine, nuclear cardiology, cardiology and holistic medicine, and is only currently certified in holistic medicine. [Tr. 180, lines 5-7; Tr. 209, lines 20-25].

13. Respondent presents himself to be a “cardiologist” to all current and prospective patients. [Tr. 210, lines 4-8; Ex. 4, pages 2, 5, 7 and 13].

14. Patient LL was seen by Respondent on September 29, 2014 complaining of chest pain. [Ex. 4]. Patient LL had seen Respondent on at least one prior visit on January 18, 2013. [Ex. 4, pages 13 and 22].

15. After examining patient LL and having a treadmill stress test administered on patient LL, Respondent diagnosed patient LL with “ischemia” with:

(n)ew onset/unstable angina (“chest tightness”) with a positive stress test associated with chest tightness. This likely represents a greater than 70% blockage in one of her coronary arteries versus coronary spasm. This is likely the case of her chest tightness. However, we cannot be sure at this point. A cauterization will delineate the coronary anatomy most effectively. She is refusing this at this time. A second less attractive alternative is a therapeutic trial of EECp with oxygen to see if this relieves her symptoms.

[Ex. 4, page 5].

16. On September 29, 2014, Respondent recommended patient LL purchase saliva hormone and urine toxicology kits. [Ex. 4, page 6].

17. Respondent recommended that patient LL be placed on a beta blocker or Labetalol, nitroglycerine and aspirin and that patient LL's saliva be tested and that she be tested for iodine and selenium. Respondent also recommended bio-energy C, L-Arginine and magnesium gel. [Ex. 3, page 2; Ex. 4, page 4].

18. Respondent also recommended that patient LL purchase AngiNOX to improve the blood flow. [Ex. 4, page 6].

19. On October 4, 2014, patient LL was scheduled for a follow-up visit with Respondent but canceled her appointment. [Ex. 3]. Respondent e-mailed patient LL and said that he "emphasize that you need to take your medications and do one of 2 things, you cannot do nothing: you could have a heart attack etc, 1. hospital catheterization/stent or open heart surgery 2. EECp with EWOT." [Ex. 4, page 10].

20. Dr. Eric Grasser referred patient LL to Dr. Marcellin L. Simard. After examining patient LL on October 7, 2014 and October 17, 2014 and after conducting an exercise stress echocardiogram on patient LL on December 18, 2014, Dr. Simard reached a different conclusion as to patient LL's diagnosis. [Ex. 5].

21. Dr. Simard diagnosed patient LL with:

negative for reversible coronary artery ischemia with no ischemic changes by ECG or echocardiography and no reported significant cardiovascular symptoms during the exam.

[Ex. 5, page ].

22. On February 5, 2015, patient LL wrote a letter to the Board complaining of Respondent's treatment and diagnosis. [Ex. 3].

23. Respondent believes that patient LL's complaint to the Board originated from a billing dispute with patient LL. [Tr. 196-197].

24. Dr. Adam P. Ronan testified on behalf of the Prosecution and was qualified as an expert in the field of cardiovascular medicine. [Tr. 29, lines 17-22].

25. Dr. Ronan graduated from the Medical College of Wisconsin in May 2003. He completed his residency in internal medicine and pediatrics from the University of Chicago Medical Center in June 2007. Dr. Ronan completed his fellowship in cardiovascular medicine in June 2010 from Loyola University Medical Center. [Ex. 2].

26. Dr. Ronan is certified in internal medicine, nuclear cardiology, cardiovascular disease and echocardiography. [Ex. 2, page 2].

27. Dr. Ronan is also a registered physician in vascular interpretation and a Fellow of the American College of Cardiology. [Ex. 2, page 2].

28. After reviewing patient LL's "clinical documents from the office visits, the stress test, documents, the reports on the stress tests and the reports on the echo, as well as e-mails between the physician and the patient, as well as the letter from the patient expressing their concerns and complaint," Dr. Ronan reached certain conclusions about the tests and treatment ordered by Respondent. [Tr. 31, lines 7-15].

29. Dr. Ronan concluded based on the information provide to him, that the diagnosis or options provided to patient LL by Respondent were incompatible. If patient LL needed "catheterization/stent open heart surgery," then she was "high risk" and she had coronary artery disease and the other "second alternative" provided by Respondent, e.g., "therapeutic trial of

EECP with oxygen,” was incompatible with the diagnosis of coronary artery disease. [Tr. 39, lines 3-24].

30. Dr. Ronan testified that the tests and treatment of care for a patient with coronary artery disease does not include a saliva test, iodine test, selenium test, bio-energy C, or L-Arginine. [Tr.43, lines 6-25; Tr. 44, 1-25].

31. Dr. Ronan also testified that after reviewing patient LL’s records he did not believe that patient LL had coronary artery disease. [Tr. 42, lines 17-25].

32. Respondent determined that patient LL’s stress test was “abnormal, positive for ischemia... (h)olter monitor shows sinus rhythm, artifact and rare atrial ectopic beats. Echo shows normal heart function. EF 55%...” [Ex. 4, page 5].

33. Dr. Ronan’s review of patient LL’s treadmill stress test indicated that the stress test was normal and that the ejection fraction or EF was 55 percent. Dr. Ronan opined that the ejection fraction or EF for a “normal, healthy person should be 55 or higher.” [Ex. 4, page 5; Tr. 53, line 22; Tr. 50, lines 4-8].

34. Respondent concluded based on the stress test that patient LL had more “than 70% blockage in one of her coronary arteries versus coronary spasm.” He reached that conclusion based only on a treadmill stress test even though catheterization is the only method to determine the actual blockage. [Ex. 4, page 5; Tr. 234, lines 5-25].

35. Dr. Ronan testified that Respondent’s diagnosis of “onsent/unstable angina” was inconsistent with the results from the stress test.

36. Dr. Ronan concluded based on patient LL’s records and her stress test that patient LL did not have coronary artery disease. [Tr. 48, lines 13-25].

37. Based on Dr. Ronan's review of patient LL's records, a prescription for a beta blocker was not appropriate because patient LL did not have coronary artery disease. [Tr. 42, lines 17-25].

38. Based on Dr. Ronan's review of patient LL's records, Respondent did not perform "risk stratification" as recommended by the American College of Cardiology Guidelines. If patient LL had an abnormal stress test as Respondent believed, then Respondent should have recommended that patient LL have a stress test with imaging or nuclear stress or stress echocardiogram. [Tr. 54, lines 1-25; Tr. 55, line 1].

39. Respondent admitted that he did not always perform "risk stratification" on patients. [Tr. 235, lines 18-25; Tr. 236, lines 1-5].

40. Dr. Simard's diagnosis did not support Respondent's diagnosis or recommendations.

41. Dr. Simard recommended that patient LL begin using Mag-Ox, 400 mg or magnesium oxide, for heartburn. [Ex. 5, page 83; <http://www.drugs.com/cdi/mag-ox.html>].

42. Patient LL performed a second stress test under the care of Dr. Simard and Dr. Simard concluded in his Stress Echo Report that the "...exercise stress echocardiogram appears negative for reversible coronary artery ischemia with no ischemic changes by ECG or echocardiography and no reported significant cardiovascular symptoms during the exam." [Ex. 5, page 85].

43. Dr. Simard noted in the Stress Echo Report that the EF was 70%. [Ex. 5, page 85].

44. Dr. Simard concluded that patient LL's "chest tightness" was "not cardiac in origin." [Ex. 5, page 80].

45. Dr. Simard's and Dr. Ronan's diagnoses of patient LL are similar and do not support Respondent's diagnosis of patient LL.

46. Dr. Ronan was a credible expert witness. His testimony was detailed and was supported by the American College of Cardiology Guidelines. His testimony was not influenced by any personal relationship with Respondent. [Exs. 8-9].

47. Dr. Santana is a cardiologist and practices in Miami Beach, Florida. [Tr. 136, lines 12-21].

48. Dr. Santana is board certified in cardiology and testified as an expert in cardiology. [Tr. 137, lines 20-22; Tr. 147, lines 7-11].

49. Dr. Santana testified that he had no disciplinary actions against him in the State of Florida. [Tr. 140, lines 10-14].

50. Dr. Santana was reprimanded by the Board of Medicine, State of Florida on September 5, 2000 for "failing to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances" on a patient who later died. [Ex. 9].<sup>3</sup>

51. Under oath, Dr. Santana contended during the hearing that he was not subject of any disciplinary action by the Board of Medicine, State of Florida. [Tr. 141, lines 8-25; Tr. 142, lines 3-10].

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<sup>3</sup> Respondent's attorney was given five days to rebut the Order from the Board of Medicine, State of Florida presented by Prosecution reprimanding Dr. Santana. No information was forthcoming rebutting the Order from the Board of Medicine. [Tr. 147, lines 16-21].



52. Dr. Santana reviewed patient LL's records and concluded that the stress test conducted on patient LL was "suggestive of ischemia." [Tr. 151, lines 13-16]. He also testified that Respondent "did everything perfectly." [Tr. 164-165, lines 23-1].

53. Dr. Santana testified that the medications recommended and prescribed by Respondent were appropriate for patient LL's condition. [Tr. 152, lines 20-23].

54. Dr. Santana also testified that a doctor should use the American Heart Association and the American College of Cardiology Guidelines in 90-95% of the time and that community standards should be used by a doctor the remaining percentage of time. [Tr. 153, lines 2-19].

55. Dr. Santana is a friend and colleague of Respondent's. [Tr. 178, lines 10-11].

56. The testimony provided by Dr. Santana was not credible because of his inability to be forthcoming about whether he had ever been disciplined and his personal relationship with Respondent, and moreover, his testimony was inconsistent with Drs. Simard's and Ronan's diagnoses of patient LL.

57. The preponderance of the evidence shows that Respondent represents to his current and prospective patients that he is a specialist in cardiology. Patient LL was seen by Respondent because of tightness in her chest. Respondent did not use a risk stratification analysis in diagnosing patient LL and diagnosed patient LL with a diagnosis of "onset/unstable angina" which is inconsistent with the results from the stress test that he read. Respondent also reached the conclusion that patient LL likely had a greater than 70% blockage in one of her coronary arteries versus coronary spasm without conducting the appropriate medical test. Respondent also prescribed a beta blocker and recommended purchases of treatments that were not supported by accepted medical guidelines.

58. Because Respondent does not use risk stratification analysis and recommends tests and treatments that are not in accord with the American College of Cardiology Guidelines, there is a “clear and immediate danger to the public health and safety if the licensee continued to practice.”

***B. FAILED TO MAINTAIN ACCURATE AND COMPLETE MEDICAL RECORDS ON PATIENT***

59. Respondent testified that he advised patient LL on the importance of catheterization and she refused to seek treatment. [Tr. 225, 15-20].

60. Respondent also testified that he advised patient LL to seek immediate care at a hospital because of her medical condition. [Tr. 225, 15-20].

61. Respondent testified that he did not document in his notes all of the information he provided to patient LL, including the importance of catheterization and seeking immediate care at a hospital. [Tr. 225, lines 20-25; Tr. 233, lines 3-25].

62. Respondent testified that he transcribes patient reports, himself, days later after he handwrites his patient notes. [Tr. 222-225].

63. Respondent testified that he did not ask patient LL to sign a Patient Refusal of Treatment. [Tr. 226, lines 14-16].

64. Respondent testified that he has only had one or two other occasions when patients have refused treatment. [Tr. 226-227].

65. The preponderance of the evidence is that Respondent failed to maintain accurate and complete medical records on patient LL.

***C. PRIOR DISCIPLINARY ACTION FOR SIMILAR CONDUCT***

66. In 2014, the Board took disciplinary action, a three month suspension, against Respondent. [Tr. 211, lines 7-12].

67. The three month suspension was for failure to report a DWI arrest and a billing issue with Blue Cross/Blue Shield. [Tr. 228-229, lines 7-4].

68. No evidence was submitted indicating what the billing issue was with Blue Cross/Blue Shield.

69. The prior disciplinary action taken by the Board is not similar to the action in the Notice of Summary Suspension and there is no evidence to support continued suspension of Respondent's license on this basis.

#### CONCLUSIONS OF LAW

A. Respondent filed a timely request for hearing to the Notice of Summary Suspension, and jurisdiction lies over the parties and the subject matter of this matter.

B. The standard of proof to be applied by the Board is a preponderance of evidence. *Foster v. Board of Dentistry*, 1986-NMSC-009, 103 N.M. 776, 714 P.2d 580.

C. The burden of proof is on the Prosecution; however, if the evidence is not rebutted or explained by the Respondent the summary suspension will stay in effect until a further Order of the Board is entered. NMSA 1978, §61-1-15.1(2008) and regulation 16.10.5.16 NMAC.

D. Respondent's physician's license was suspended on November 6, 2015 because the Board had evidence that Respondent posed a clear and immediate danger to the public health and safety of the community.

E. The purpose of this hearing was to determine whether Respondent's license should continued to be suspended because he posed a "clear and immediate danger to the public

health and safety if the licensee continued to practice” in violation of NMSA 1978, 61-6-15.1(A)(1) (2008) and regulation 16.10.5.16(A)(1) NMAC.

F. Respondent’s attorney argued that Prosecution failed to present evidence that Respondent posed a clear and immediate danger to the public, and instead tried to prove that Respondent did not meet the standard of care for one patient, patient LL (which was not the issue at this hearing). The Hearing Officer agrees with Respondent’s attorney that much time was spent on the standard of care of one patient. However, there was also much discussion on tests and treatments offered by Respondent that were not in compliance with the American College of Cardiology Guidelines, and Respondent never made clear what guidelines he was following when he prescribed treatments.

G. Prosecution proved by a preponderance of the evidence that Respondent held himself to the public as a specialist in cardiology. Prosecution also proved by a preponderance of the evidence that Respondent does not use a risk stratification analysis in diagnosing patients with heart complaints. Risk stratification is recommended to be used by the American College of Cardiology Guidelines in diagnosing patients with heart complaints. Prosecution proved by a preponderance of the evidence that Respondent did not read the results from a stress test accurately and that Respondent reached the opinion that patient LL had a 70% blockage in one of her coronary arteries with only having a treadmill stress test conducted which is not the appropriate test to reach this conclusion. Prosecution also proved by a preponderance of the evidence that Respondent prescribed treatments, e.g., saliva hormone testing, iodine and selenium testing, bio-energy C, L-Arginine, magnesium gel, and AngiNOX that were not in accordance with medical guidelines and Respondent prescribed medications of beta blocker,

Labetatol, nitroglycerine and aspirin that were not in accordance with patient LL's medical condition.

H. Prosecution proved by a preponderance of the evidence that in not using commonly accepted methods of diagnosing and in not using commonly accepted tests and treatments in patients with heart problems, that Respondent presents a clear and immediate danger to the public health and safety if he continues to practice.

I. Respondent did not prove that his methods of diagnosing patients with heart problems followed other guidelines commonly accepted by the medical community.

J. Respondent did not rebut the evidence presented that he failed to maintain accurate and complete medical records on patient LL.

K. Prosecution failed to present any evidence that Respondent was disciplined by the Board for **similar** conduct in 2014. (Emphasis added).

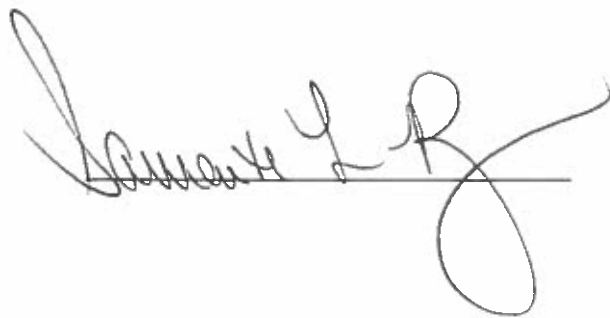
Dated: January 21, 2016

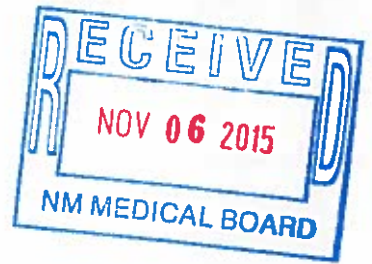


Monica Ontiveros, Esq.  
Hearing Officer  
New Mexico Medical Board

**CERTIFICATE OF SERVICE**

I hereby certify that this Report was mailed to Katherine M. Furlic, Esq. located at 123 W. San Francisco St., Second Floor, Santa Fe, New Mexico 87501 and was served by interoffice mail to Thomas W. Banner, Esq., located at 2055 South Pacheco Street, Building 400, Santa Fe, New Mexico 87505 this 21th day of January, 2016.

A handwritten signature in black ink, appearing to read "Thomas W. Banner", written over a horizontal line.



**BEFORE THE NEW MEXICO MEDICAL BOARD**

**IN THE MATTER OF** )  
**ROY HEILBRON, M.D.** )  
 )  
**License: MD 2006-0145** )  
 )  
**Respondent.** )

**No. 2015-029**

**NOTICE OF SUMMARY SUSPENSION**

YOU ARE HEREBY NOTIFIED that your license to practice medicine is hereby **SUMMARILY SUSPENDED** pursuant to Section 61-6-15.1, NMSA 1978 of the Medical Practice Act (“MPA”), and that pursuant to Section 61-1-4, NMSA 1978 of the Uniform Licensing Act (“ULA”) the New Mexico Medical Board (“Board”) possesses evidence indicating that the licensee poses a clear and immediate danger to the public health and safety if the licensee continues to practice medicine. Such evidence, if not rebutted at a later hearing, will justify the Board’s further suspension or revocation of your license to practice medicine in the State of New Mexico and/or other disciplinary action taken against you by the Board.

Section 61-6-15.1(A), NMSA 1978 states, in pertinent part, that:

The board may summarily suspend or restrict a license issued by the board without a hearing, simultaneously with or at any time after the initiation of proceedings for a hearing provided under the Uniform Licensing Act [61-1-1 through 61-1-31 NMSA 1978], if the board finds that evidence in its possession indicates that the licensee:

(1) poses a clear and immediate danger to the public health and safety if the licensee continues to practice...

See also Rule 16.10.5.16 NMAC.

This summary suspension is based on evidence in the Board’s possession that indicates:

- A. The Board learned that you saw a patient on or about September 29, 2014 who

presented complaining of tightness in the chest. You administered a stress test, EKG, echocardiogram and ordered a 24-hour halter monitor to monitor cardiac activity. After allegedly reviewing the results of the aforementioned tests, you advised the patient that the left branch of the patient's coronary artery was 70% occluded and urged the patient to immediately submit to a variety of treatments in your office including "enhanced external counterpulsation" ("EECP") and exercise with oxygen treatment ("EWOT") as frequently as 5 times per week. You informed the patient that these courses of treatment would dissolve the plaque in the patient's artery and stimulate the growth of new branches of cardiac artery. You further explained that you do not accept insurance, and that each individual treatment session would cost the patient \$125.00. You prescribed aspirin, Labetalol for high blood pressure, and nitroglycerine – even though the patient did not have chest pain; you also counseled the patient to purchase several supplements and home-diagnostic kits from your office – which the patient did purchase.

B. The patient obtained a second opinion from another cardiologist and learned that the tests and treatments ordered by you were not consistent with currently accepted consensus guidelines for treatment of the conditions you purportedly diagnosed in the patient. Subsequent testing of the patient's cardiac functioning revealed a strong, well-functioning heart.

C. An investigation conducted by the Board's Staff found that you failed to maintain accurate and complete medical records on the patient in question in a manner consistent with currently accepted standards.

D. Finally, it is also noted that the conduct described above is similar to conduct that the Board disciplined you for in 2014. As part of the discipline imposed in 2014, the



Board required you to take a medical record-keeping course and an ethics course. At this time, in light of the foregoing, it appears that you may require additional training in the areas of medical record-keeping and medical ethics.

In consideration of the foregoing, and the evidence in the Board's possession, the Board FINDS AND CONCLUDES that you pose a clear and immediate danger to the public health and safety if you continue to practice medicine in the State of New Mexico.

THEREFORE IT IS HEREBY ORDERED that your New Mexico license to practice as a physician in the State of New Mexico is hereby SUSPENDED until further Order of the Board.

Pursuant to Board Rule 16.10.5.16 NMAC, you are entitled to a hearing on the merits of this summary suspension order within fifteen (15) days of a request for such a hearing. Your hearing request shall be in writing, addressed to the Board, delivered by certified mail, return receipt requested. You are not required to comply with this summary action until service of this action has been made personally or by certified mail, return receipt requested, at your last known address as shown in the Board's records, or you have actual knowledge of this order, whichever comes first.


Pursuant to Section 61-1-8, NMSA 1978, you have the right to be represented at a hearing on this summary suspension order 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.

The issuance of this Summary Suspension is a disciplinary event and will be reported to the National Practitioner Data Bank and is a public document, open to public inspection.

Dated this 6 day of November, 2015.

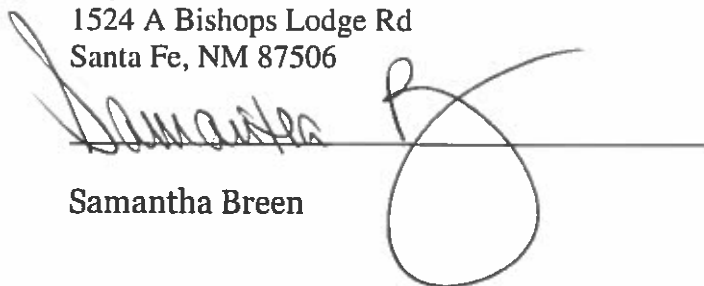
NEW MEXICO MEDICAL BOARD

  
\_\_\_\_\_  
Steven M. Jenkusky, M.D., Chair

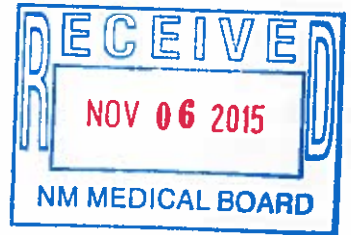
**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the Summary Suspension was sent to Respondent via Certified Return Receipt USPS on November 6, 2015.

Roy Heilbron, MD  
1524 A Bishops Lodge Rd  
Santa Fe, NM 87506

A handwritten signature in black ink, appearing to read 'Samantha Breen', is written over a horizontal line. The signature is stylized and includes a large loop at the end.

**Samantha Breen**



**BEFORE THE NEW MEXICO MEDICAL BOARD**

**IN THE MATTER OF** )  
**ROY HEILBRON, M.D.** )  
 )  
**License: MD 2006-0145** )  
 )  
**Respondent.** )

No. 2015- 029

**NOTICE OF CONTEMPLATED ACTION**

YOU ARE HEREBY NOTIFIED that pursuant to provisions of Section 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. You are subject to action by the Board pursuant to the ULA and Sections 61-6-1 et seq., NMSA 1978 of the Medical Practice Act (“MPA”).
2. This Notice of Contemplated Action (“NCA”) is based on the following allegations:

A. The Board learned that you saw a patient on or about September 29, 2014 who presented complaining of tightness in the chest. You administered a stress test, EKG, echocardiogram and ordered a 24-hour halter monitor to monitor cardiac activity. After allegedly reviewing the results of the aforementioned tests, you advised the patient that the left branch of the patient’s coronary artery was 70% occluded and urged the patient to immediately submit to a variety of treatments in your office including “enhanced external counterpulsation” (“EECP”) and exercise with oxygen treatment (“EWOT”) as frequently as 5 times per week. You informed the patient that these courses of treatment would dissolve

the plaque in the patient's artery and stimulate the growth of new branches of cardiac artery. You further explained that you do not accept insurance, and that each individual treatment session would cost the patient \$125.00. You prescribed aspirin, Labetalol for high blood pressure, and nitroglycerine – even though the patient did not have chest pain; you also counseled the patient to purchase several supplements and home-diagnostic kits from your office – which the patient did purchase.

B. The patient obtained a second opinion from another cardiologist and learned that the tests and treatments ordered by you were not consistent with currently accepted consensus guidelines for treatment of the conditions you purportedly diagnosed in the patient. Subsequent testing of the patient's cardiac functioning revealed a strong, well-functioning heart.

C. An investigation conducted by the Board's Staff found that you failed to maintain accurate and complete medical records on the patient in question in a manner consistent with currently accepted standards.

D. Finally, it is also noted that the conduct described above is similar to conduct that the Board disciplined you for in 2014. As part of the discipline imposed in 2014, the Board required you to take a medical record-keeping course and an ethics course. At this time, in light of the foregoing, it appears that you may require additional training in the areas of medical record-keeping and medical ethics.

3. The allegations set forth in paragraphs 2(A) and 2(B) above, if proven, would violate provisions of the MPA including the following:

- A. Section 6-6-15(D)(9), NMSA 1978, making false or misleading statements regarding the... efficacy or value of the medicine, treatment or remedy prescribed or administered by the licensee;
- B. Section 6-6-15(D)(13), manifest incapacity or incompetence to practice as a licensee);
- C. Section 6-6-15(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)(20), employing abusive billing practices;
- F. Section 6-6-15(D)(29), conduct unbecoming in a person licensed to practice or detrimental to the best interests of the public;
- G. Section 6-6-15(D)(33), improper management of medical records, including failure to maintain timely, accurate, legible and complete medical records; and/or
- H. Breach of the "Code of Medical Ethics of the America Medical Association", Opinion 8.063 concerning the "Sale of Health-Related Products from Physician's Office" as adopted by the Board at Rule 16.10.8.9 NMAC.

4. Take notice that pursuant to Section 61-1-4, NMSA 1978 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.

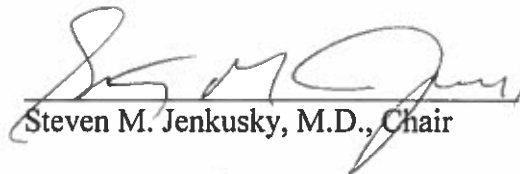
5. Pursuant to Section 61-1-8, NMSA 1978, you have the right to be represented by counsel or by a licensed member of your profession or both, and to present all relevant evidence by means of witnesses, books, papers, documents and other evidence; to examine all opposing witnesses who may appear on any 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.

6. The issuance of this NCA 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 Section 61-1-3, NMSA 1978, you shall bear all costs of disciplinary proceedings pursuant to Section 61-1-4(G), NMSA 1978 unless excused by the Board.

Dated this 6 day of November, 2015.

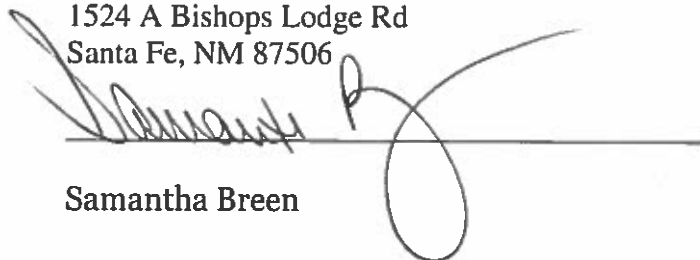
NEW MEXICO MEDICAL BOARD

  
Steven M. Jenkusky, M.D., Chair

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the Notice of Contemplated Action was sent to Respondent via Certified Return Receipt USPS on November 6, 2015.

Roy Heilbron, MD  
1524 A Bishops Lodge Rd  
Santa Fe, NM 87506

A handwritten signature in black ink, appearing to read "Samantha Breen", is written over a horizontal line. The signature is stylized and includes a large loop at the end.

Samantha Breen



Received  
9-24-2014

**BEFORE THE NEW MEXICO MEDICAL BOARD**

**IN THE MATTER OF** )  
 )  
**ROY HEILBRON, MD** )  
**License No. MD2006-0145** )  
 )  
**Respondent** )

**Case No. 2014-007**

**ORDER OF RELEASE FROM STIPULATION OF LICENSURE AND ORDER**

In June 2014, Roy Heilbron, M.D. ("Respondent") entered into a Stipulation of Licensure and Order which suspended his license to practice medicine for three (3) months effective June 27, 2014, and placed certain terms and conditions on Respondent's license to practice including the requirement to successfully complete the PROBE Ethics Course offered by CPEP, along with a medical record keeping course offered by PACE within three (3 months) effective June 27, 2014. Respondent was also required to reimburse the Board for certain costs.

Respondent successfully completed the suspension period and successfully completed the terms and conditions placed on his license within the three (3) month period.

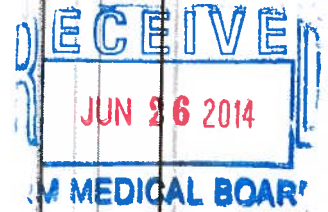
IT IS HEREBY ORDERED that Respondent was released from the terms and conditions placed on his license to practice medicine in New Mexico based upon his successful compliance with the terms and conditions in the Stipulation. Respondent shall have an unrestricted license to practice medicine in New Mexico effective immediately.

Dated: 09/24/14

**NEW MEXICO MEDICAL BOARD**

By: Steven Weiner, M.D.  
Steven Weiner, M.D., Chair

BEFORE THE NEW MEXICO MEDICAL BOARD



IN THE MATTER OF )  
ROY HEILBRON, M.D. )  
License No. MD2006-0145 )  
Respondent. )

No. 2014-007

STIPULATION OF LICENSURE AND ORDER

This matter, having come before the New Mexico Medical Board ("the Board"), by agreement of the Prosecutor and the respondent Roy Heilbron, M.D. ("Respondent"), by and through his counsel, Jennifer Hall (collectively, "the Parties") regarding this Stipulation of Licensure and Order ("Stipulation"), and the Board, being fully advised, hereby finds and orders as follows:

FINDINGS:

1. Respondent is subject to the jurisdiction of the Board pursuant to the Medical Practice Act, NMSA 1978, §§ 61-6-1 through -35 ("the Act"), and the New Mexico Medical Board rules and regulations, Title 16, Chapter 10, NMAC.
2. The Board enters this Stipulation pursuant to NMSA 1978, Section 61-6-15(A), and Board Rule 16.10.5.15 NMAC.
3. The Board issued a Notice of Contemplated Action ("NCA") against Respondent dated March 12, 2014.
4. The NCA alleged violations of Sections 61-6-15(D)(33), 61-6-15(D)(4), 61-6-15(D)(15), 61-6-15(D)(18), 61-6-15(D)(21)(c), of the Act.
5. Respondent, without admitting that his actions have violated the above cited statutes, acknowledges that sufficient evidence exists to find that he violated the above cited statutes and Board rules and hereby agrees and submits to the sanctions and discipline set forth in the Order below.

6. 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 stipulated order, if accepted, results in a waiver of his rights under the Uniform Licensing Act and the Medical Practice Act, including the right to a hearing and to judicial review on the matters alleged, and the right to challenge this order in court.

ORDER:

A. Respondent is hereby SUSPENDED for the above-cited violations of the Act for three (3) months from the date of this Stipulation. During this period of suspension, Respondent shall not practice medicine in any manner. This suspension does not prohibit Respondent from referring patients or prospective patients to other health care providers, but Respondent shall not direct or participate in any health care decisions for such patients. This suspension will end automatically ninety (90) days from the date of the Stipulation unless Respondent has breached any of the terms of the Stipulation.

B. Within sixty (60) days of the date of this order, Respondent shall pay the recoverable costs incurred by the Board for prosecution of this action in the amount of \$525.00 for the hourly fee incurred for expert review as of the date of this Stipulation.

C. Respondent shall successfully complete (1) the PROBE/ethics program offered by the Center for Personalized Education for Physicians in Denver, Colorado at numerous locations, and (2) a medical record keeping seminar, offered by the Center for Personalized Education for Physicians in Denver, Colorado or by the PACE program in San Diego, California within three (3) months of the date of this Stipulation. Upon completion of the PROBE/ethics program, Respondent shall submit to the Board CPEP's evaluation and assessment report. Upon completion of the medical keeping seminar, Respondent shall submit all documentation provided by CPEP or PACE, including any written final summary reports or certificates of completion.

D. Respondent shall appear before the Board upon the Board's request and shall appear



prior to the Board reinstating Respondent's license to practice; the parties anticipate that Respondent shall so appear at the Board's quarterly meeting on August 7-8, 2014. Respondent shall additionally appear at the quarterly Board meeting on November 13-14.

E. Respondent shall comply with the Medical Practice Act and Rules and all other applicable laws.

F. In the event Respondent breaches 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 NMAC 16.10.5.15. Furthermore, each breach of any term of this stipulation shall constitute conduct unbecoming in a person licensed to practice medicine as set forth in Section 61-6-15(D)(29) NMSA 1978. The Board shall within 10 days of an immediate suspension issue a Notice of Contemplated Action, and Respondent will be entitled to a formal hearing in accordance with the Uniform Licensing Act, Section 61-1-1 through 61-1-33 NMSA 1978. The Board may issue a NCA upon a breach of any term without issuing an immediate suspension, and may further reassert any claims against Respondent as set forth in the original NCA as part of such subsequent NCA.

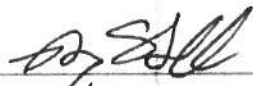
G. This Stipulation and any subsequent Board order enforcing or interpreting this Stipulation will be reported to the National Practitioner Data Bank and is a public document open to public inspection.

H. The conditions and terms set forth in this Stipulation will remain in effect if and until respondent successfully completes the terms of this Stipulation.

I. If approved, this Stipulation will be in effect starting on June 27, 2014.

IT IS SO STIPULATED by Respondent, and the Board, and SO ORDERED by the Board:

Dated: 6/20/14

  
\_\_\_\_\_  
Respondent



NEW MEXICO MEDICAL BOARD

Dated: 06/26/2014

BY:   
Steven Weiner, M.D., Chair

Approved as to form:

MILLER STRATVERT P.A.

By \_\_\_\_\_

JENNIFER D. HALL  
**Attorney for Respondent**  
P.O. Box 25687  
Albuquerque, New Mexico 87125  
(505) 842-1950  
(505) 243-4408 Fax  
Jhall@mstlaw.com



BEFORE THE NEW MEXICO MEDICAL BOARD



IN THE MATTER OF )
ROY HEILBRON, M.D. )
License No. MD2006-0145 )
Respondent. )

No. 2014-007

NOTICE OF CONTEMPLATED ACTION

YOU ARE HEREBY NOTIFIED that pursuant to provisions of Section 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. You are 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. On or about April 20, 2013, you were arrested in Albuquerque, New Mexico and charged with aggravated DWI. You failed to report this arrest to the Board as required by Rule 16.10.10.13 NMAC.

B. By letter dated March 15, 2011, the health care insurance company Blue Cross Blue Shield ("BCBS") took adverse action against you, terminating your Medical Services Entity Agreement. BCBS held an informal "Fair Hearing" on May 2, 2011, which affirmed the initial decision to terminate the agreement.

C. The bases for the action in B, above, was your excessive, unjustified and fraudulent billing practices for numerous patients that were insured by BCBS.

D. You reported the action in B, above, in your renewal application submitted in

June, 2012, not within 30 days as required by Rule 16.10.10.13 NMAC.

3. These allegations, if proven, would constitute a violation of the following sections of the Act:

- a. Section 61-6-15(D)(33), failure to maintain or keep adequate, legible, accurate or complete medical records;
- b. Section 61-6-15(D)(4), obtaining a fee by fraud or misrepresentation;
- c. 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 61-6-15(D)(18), conduct likely to deceive or defraud the public; and
- e. Section 61-6-15(D)(21)(c), failure to report to the Board any adverse action against the licensee by a health care entity.

4. Please take notice that pursuant to 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, and there will be no judicial review of their decision.

5. Pursuant to Section 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.

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 Section 61-1-3 of the ULA, you shall bear all costs of disciplinary proceedings pursuant to Section 61-1-4(G) of the ULA unless excused by the Board.

Dated this 11<sup>th</sup> day of March, 2014.

NEW MEXICO MEDICAL BOARD



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



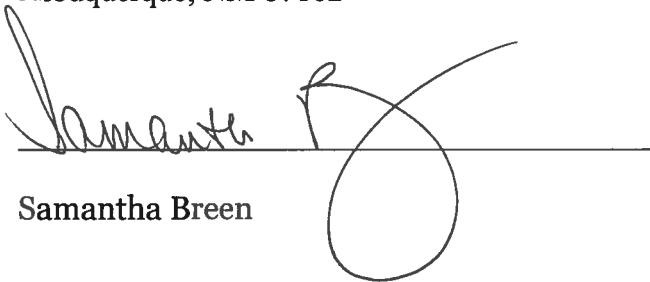
CERTIFICATE OF SERVICE

I hereby certify that a true copy of the Notice of Contemplated Action was sent via certified mail to Respondent and Respondent's Counsel this 12<sup>th</sup> day of March 2014.

Roy Heilbron, MD  
1530 Bishops Lodge Rd  
Santa Fe, NM 87506

**Hand Delivered to:**  
Dan Rubin  
2055 S Pacheco Bldg 400  
Santa Fe, NM 87505

Miller Stratvert Law Office  
Jennifer Hall  
500 Marquette NW, Ste 1100  
Albuquerque, NM 87102



A handwritten signature in cursive script, appearing to read "Samantha", is written over a horizontal line. To the right of the signature is a large, stylized circular flourish or scribble.

Samantha Breen