

**BEFORE THE NEW MEXICO BOARD OF  
OSTEOPATHIC MEDICAL EXAMINERS  
FOR THE STATE OF NEW MEXICO**

**IN THE MATTER OF:**

**KIM S. YOUNG, D.O.,  
License No. A-1267-04**

**CASE: #O-05-06**

**RESPONDENT.**

**DEFAULT ORDER**

This matter having come before the New Mexico Board of Osteopathic Medical Examiners on June 29, 2007 with a quorum present and a majority voting in the affirmative the Board finds as follows:

1. A notice of Contemplated Action (NCA) was served upon Respondent in accordance with the Uniform Licensing Act (ULA), Section 61-1-1 to 61-1-33 NMSA 1978.
2. Respondent did not request a hearing within twenty (20) days of receipt of service of the NCA as set forth in the ULA.
3. Pursuant to the provisions of the ULA, if the Respondent does not request a hearing, the Board may proceed to take action against the license of the Respondent by default.

**IT IS THEREFORE ORDERED THAT APPLICATION FOR LICENSURE OF  
THE RESPONDENT BE DENIED.**

6/29/07  
Date

[Signature]  
Chairperson  
New Mexico Board of Osteopathic Medical  
Examiners

CERTIFIED MAIL NO. 7005 0390 0003 4007 3386  
RETURN RECEIPT REQUESTED

**BEFORE THE BOARD OF  
OSTEOPATHIC MEDICAL EXAMINERS  
FOR THE STATE OF NEW MEXICO**

**IN THE MATTER OF:  
KIM S. YOUNG, D.O.,  
License No. A-1267-04,  
Respondent.**

**BOME Case No. O-05-06**

**NOTICE OF CONTEMPLATED ACTION**

1. The Respondent is licensed under the Osteopathic Medicine and Surgery Act, NMSA 1978, §§ 61-10-1 through 61-10-22 and is subject to the jurisdiction of the New Mexico Board of Osteopathic Medical Examiners (the "Board.")

2. The Board has sufficient evidence, which, if not rebutted or explained, will justify the Board in suspending or revoking or taking other action against the respondent's license pursuant to NMSA 1978, §61-10-15 (C) and (G), §26-1-16, Title 16, Chapter 17, Part 6 and more specifically 16.17.6.8A (3) and (6) NMAC which provide:

**Section 61-10-15. Refusal and revocation of license**

The Board may refuse to issue or suspend or revoke any license for any one or any combination of the following causes:

- C. gross malpractice;
- G. immoral, dishonorable or unprofessional conduct.

**Section 26-1-16. Dangerous drugs; conditions for sale; prescription refilling; limitations**

- A. It is unlawful for any person to sell, dispose of or possess any dangerous drugs, except:
- (1) manufacturers or distributors, their agents or employees licensed by the board to ship dangerous drugs into the state; or
  - (2) distributors, hospitals, nursing homes, clinics or pharmacies and other authorized retailers of dangerous drugs in this state licensed by the board, and appropriate records of dangerous drugs receipt and disposition are kept. These records shall be open to inspection by any enforcement officer of this state.
- B. Practitioners licensed in this state may prescribe, provide samples of and dispense any dangerous drug to a patient where there is a valid physician- patient relationship. A record of all such dispensing shall be kept showing the date the drug was dispensed and bearing the name and address of the patient to whom dispensed. It is the duty of every licensed physician, dentist, veterinarian, pharmacist or person holding a limited license issued under Subsection B of NMSA 1978 Section 61-11-14, when dispensing any dangerous drug, to mark on the dispensing container the name of the patient, the date dispensed, the name and address of the person dispensing the drug, the name and strength of the drug, expiration date where applicable, adequate directions for use and the prescription number when applicable. All official compendium requirements for the preservation, packaging, labeling and storage of dangerous drugs are applicable where drugs are held for dispensing to the public, whether by a pharmacy, clinic, hospital or practitioner.

#### **16.17.6.8.1 NMAC - Causes for Refusal or Revocation of Licensure.**

The Board may either refuse to issue or may suspend or revoke any licensure for any one or more of the following causes, whether committed in the State of New Mexico or elsewhere.

**16.17.6.8.A(3)** gross malpractice, which means gross and flagrantly improper treatment of a patient, or such culpable neglect of a patient as to indicate a willful act or injury to the patient. Gross malpractice also means such incompetence on the part of the practitioner as to render him unfit to hold himself out to the public as a licensed osteopathic physician and surgeon. Gross malpractice shall also consist of performing, aiding, or abetting the performance of any act or operation upon or on behalf of a patient expressly forbidden by state and federal penal laws, such as criminal operations, dispensing and prescribing of narcotics;

**16.17.6.8.A(6)** immoral dishonorable or unprofessional conduct.

3. The general nature of the allegations is contained in Exhibit 1 to this Notice of Contemplated Action. Dr. Young received Citation Order No. 23-2004-159194 from the Medical Board of California for unlicensed activity for prescribing "Butalbital to an individual in the State of California without having at the time of doing so a valid California Physician's and Surgeon's License to practice medicine in the State of California."

4. The respondent must reply to the Board within twenty days after service of this notice in order to request a hearing. Failure to reply will result in the Board taking the contemplated action.

New Mexico Board of Osteopathic Medical Examiners  
Attn: Patrick Stewart, Director of Compliance  
Post Office Box 25101  
Santa Fe, New Mexico 87504

**61-1-8. Rights of person entitled to hearing.**

A. A person entitled to be heard under the Uniform Licensing Act  
*Board of Osteopathic Medical Examiners v. Kim S. Young, D.O.*  
*Notice Of Contemplated Action*  
*Page 3 of 5*

NMSA 1978, §§61-1-1 to 61-1-31 shall have the right to be represented by counsel or by a licensed member of his own profession or occupation, or both; to present all relevant evidence by means of witnesses and books, papers, documents and other evidence; to examine all opposing witnesses who appear on any matter relevant to the issues; and to have subpoenas and subpoenas duces tecum issued as of right prior to the commencement of the hearing to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making written request therefore to the board or hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the board or the hearing officer. All notices issued pursuant to NMSA 1978, §61-1-4 shall contain a statement of these rights.

- B. Upon written request to another party, any party is entitled to:
- (1) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and
  - (2) inspect and copy any documents or items, which the other party will or may introduce in evidence at the hearing.

The party to whom such a request is made shall comply with it within ten days after the mailing or delivery of the request. No request shall be made less than fifteen days before the hearing.

C. Any party may take depositions after service of notice in accordance with the Rules of Civil Procedure for the District Courts. Depositions may be

used as in proceedings governed by those rules.

Date: 2/10/07

Tom Lindsey, D.O. FAcOS

Dr. Tom Lindsey, Chairperson  
Osteopathic Medical Examiners Board

Prepared by:

Anderson E. Clipper  
Anderson E. Clipper,  
Assistant Attorney General

2/22/06  
Date

### CERTIFICATE OF SERVICE

A true copy of this Notice of Contemplated Action was mailed to Respondent by certified mail, return receipt requested, on this 16<sup>th</sup> day of Feb. ~~2006.~~ 2007.

Kim S. Young, D.O.  
1529 Redbud Lane  
McAlester, Oklahoma 74501

By: Siane Vigil-Hayes  
Compliance Liaison, RLD  
Boards & Commission