

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

In the Matter of the Charges and
Complaint Against:

STEPHEN SELDON, M.D.,

Respondent.

Case No. 08-10701-2

FILED

JUN - 4 2009

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The above-entitled matter came on for hearing before the Nevada State Board of Medical Examiners, hereinafter "Board," on Friday, May 8, 2009, at the Board's Office located at 1105 Terminal Way, Suite 301, Reno, Nevada 89502. The Investigative Committee of the Board was represented at the hearing by Lyn E. Beggs, General Counsel, and Respondent, Stephen Seldon, M.D., hereinafter "Respondent," was present at the hearing.

The Members of the Board participating in the decision were: Javaid Anwar, M.D.; Sohail Anjum, M.D.; Van V. Heffner; S. Daniel McBride, M.D and Renee West. All other remaining members of the Board, being members of the Investigative Committee which issued the complaint in this matter, or absent from the hearing were excused from participating and took no part in the proceedings of the Board. Christine M. Guerici-Nyhus, Chief Deputy Attorney General, acted as legal counsel to the Board.

The Board having received and read the complaint and exhibits offered in this matter; heard testimony and oral argument and having reviewed all of the above, proceeded to make a decision pursuant to the provisions of NRS chapter 233B and NRS 630.352.

The Board after due consideration of the record, evidence and law, and being fully advised in the premises, makes its FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER in this matter as follows:

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FINDINGS OF FACT

I.

Dr. Seldon is currently licensed in active status, and was so licensed by the Nevada State Board of Medical Examiners, hereinafter referred to as "the Board," on February 2, 1995 (License No. 7343), pursuant to the provisions of Chapter 630 of the Nevada Revised Statutes, and at all times addressed herein was so licensed.

II.

The Board's records show that Dr. Seldon's specialty is otolaryngology.

III.

Dr. Seldon, in conjunction with his wife Deborah Martinez Seldon, operates a medical practice called "A New You Medical Aesthetics" (hereinafter "A New You") and currently known as "Medical Aesthetics and Cosmetic Surgery" in Henderson, Nevada, specializing in cosmetic procedures. One of the procedures offered by Dr. Seldon through "A New You" and now "Medical Aesthetics and Cosmetic Surgery" is the injection of botulinum neurotoxin type A for cosmetic purposes.

IV.

Botulinum neurotoxin type A has been approved by the Federal Drug Administration (FDA) for human use for limited purposes and the only FDA approved manufacturer of botulinum neurotoxin type A is Allergan, using the brand name Botox.

V.

Beginning in October 2003 and through September 2005, Dr. Seldon and Mrs. Seldon began purchasing botulinum neurotoxin type A from a company called Toxin Research International, Inc. (hereinafter TRI). TRI was based in Tucson, Arizona and was not an approved manufacturer of botulinum neurotoxin type A for human use. The botulinum neurotoxin type A manufactured and sold by TRI was called TRItox. TRItox is not and has never been approved for human use, and, in fact, each vial was labeled, "For research purposes only, not for human use." TRI's invoices also contained the warning, "For research purposes only, not for human use."

VI.

On June 27, 2007, Dr. Seldon and Mrs. Seldon were charged by a Criminal Indictment resultant from a federal grand jury in the case entitled *United States v. Stephen Lee Seldon, M.D. and Deborah Martinez Seldon* (U.S. Dist. Ct. Nev. Case No. 07-CR-0135-KJD-LRL). In the Criminal Indictment, Dr. Seldon and Mrs. Seldon were each charged with fourteen counts of mail fraud under 18 U.S.C. § 1341, punishable by up to twenty years in prison for each count and one count of misbranding a drug while held for sale under 21 U.S.C. § 331(k), punishable by up to three years in prison.

VII.

On November 19, 2008, after a ten day jury trial, the jury found Dr. Seldon and Mrs. Seldon each to be guilty of all fifteen counts made against them in the Criminal Indictment. Sentencing on the convictions is scheduled for February 19, 2009. The Seldons were released on their own recognizance pending sentencing.

VIII.

Based on the conviction of Dr. Seldon, the Nevada State Board of Pharmacy immediately suspended the controlled substance registration of Dr. Seldon pursuant to NRS 639.2121 on November 24, 2008.

IX.

On November 7, 2008, the Investigative Committee of the Nevada State Board of Medical Examiners filed a formal disciplinary complaint against Dr. Seldon alleging two counts of malpractice and one count of failure to maintain timely, legible, accurate and complete medical records relating to a patient who underwent tumescent liposuction by Dr. Seldon in October 2007. The patient at issue in that matter died less than 48 hours after undergoing the procedure.

X.

The complaint in Count I alleged that Respondent violated NRS 630.301(1) as a result of his conviction of a felony relating to the practice of medicine.

XI.

The complaint in Count II alleged that the Respondent violated NRS 630.301(11)(f) as a result of his conviction of a violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug.

XII.

The complaint in Count III alleged that the Respondent violated NRS 630.306(7), as shown by his convictions, in continually failing to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.

XIII.

The Board finds that Respondent violated NRS 630.301(1) as set forth in count I of the Complaint.

XV.

The Board further finds that Respondent violated NRS 630.301(11)(f) as set forth in count II of the Complaint.

XVI.

The Board further finds that Respondent violated NRS 630.306(7), as set forth in count III of the Complaint.

XVII.

The Board finds by a preponderance of the evidence, that Respondent's conduct is a violation of NRS Chapter 630 and discipline is warranted.

XVIII.

If any of the foregoing Findings of Fact is more properly deemed a Conclusion of Law, it may be so construed.

CONCLUSIONS OF LAW

I.

The Board has jurisdiction over Respondent.

II.

Respondent was properly served with notice of the hearing pursuant to NRS and NAC Chapters 630 and NRS Chapter 233B.

III.

The Board concludes that Respondent's criminal convictions are violations of NRS 630.301(1); NRS 630.301(11)(f) and NRS 630.306(7), and thus Respondent is subject to discipline.

IV.

If any of the foregoing Conclusions of Law is more properly deemed a Findings of Fact, it may be so construed.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, and good cause appearing therefore,

IT IS HEREBY ORDERED that:

1. Respondent has violated NRS Chapter 630 and that discipline is warranted;
2. Respondent's license as a physician in the State of Nevada is hereby revoked;
3. Respondent shall reimburse the Board all costs and fees incurred in the investigation and prosecution of this case within ninety days from the date of service of this Order. The total costs and fees incurred are Ten Thousand Nine Hundred Sixty Seven Dollars and ninety one cents (\$10,967.91); and

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4. Respondent shall pay a fine in the amount of Fifteen Thousand Dollars (\$15,000.00) within ninety days from the date of service of this Order.

DATED this 4th day of June 2009.

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: Renee West
Renee West, Secretary-Treasurer

Submitted by:
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Attorney General

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