

BEFORE THE BOARD OF MEDICAL EXAMINERS

IN THE STATE OF ARIZONA

In the Matter of

ABELARDO SOTELO, M.D.

Holder of License No. **24071**For the Practice of Medicine
In the State of Arizona.

Board Case No. MD-00-0472

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

(Letter of Reprimand and Probation)

This matter was considered by the Arizona Board of Medical Examiners ("Board") at its public meeting on August 17, 2001. Abelardo Sotelo, M.D., ("Respondent") appeared before the Board without legal counsel, for a formal interview pursuant to the authority vested in the Board by A.R.S. § 32-1451(I). After due consideration of the facts and law applicable to this matter, the Board voted to issue the following findings of fact, conclusions of law and order.

FINDINGS OF FACT

- 1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.
- 2. Respondent is the holder of License No. 24071 for the practice of medicine in the State of Arizona.
- 3. On September 29, 1998, Patient sought treatment from Respondent for bilateral shoulder pain. Respondent determined that Patient had a left shoulder rotator cuff tear with impingement syndrome and degenerative changes of the acromioclavicular joint. Respondent determined that Patient had impingement syndrome and degenerative joint disease of the acromioclavicular joint in the right shoulder.

- 4. On October 5, 1998, Respondent performed surgery on Patient's left shoulder. Respondent reported that the rotator cuff was retracted and impossible to reach.
- 5. On October 19, 1998, Respondent removed the stitches and noted that Patient's wound was healing.
- 6. On or about October 19, 1998, Patient reported seepage from the wound and Respondent prescribed the antibiotic Keflex. Respondent's notes do not document that Patient experienced wound drainage.
- 7. Patient next saw Respondent on October 27, 1998. Respondent's notes from this date indicate that a culture of the wound was performed on October 19, 1998, but there are no existing culture results verifying that the culture was performed.
- 8. On October 27, 1998, Respondent performed a wound culture. This culture is verified by the culture results.
- 9. On November 5, 1998, the results of the wound culture indicated that the wound infection was not sensitive to Keflex. Respondent switched Patient to Cipro.
- 10. On November 30, 1998, Respondent performed an incision and drainage of Patient's shoulder. There was a significant amount of purulent and necrotic material in the wound on November 30, 1998.
- 11. On December 3, 1998 Respondent performed a debridement and reattachment of the rotator cuff utilizing A-O screws with washers. Respondent performed this procedure even though there were indications of an infection.
- 12. Respondent provided follow-up care to Patient from December 1998 through March 1999.

- 13. On March 1, 1999, Respondent examined Patient who was complaining that the A-O screws were causing pain and a grinding sensation. Respondent recommended the screws be removed on an out-patient basis on March 8, 1999.
- 14. Patient canceled the surgery and indicated that he would seek a second opinion.
- 15. In April of 1999, another physician operated on Patient's left shoulder and noted no evidence of a rotator cuff except for part of the teres minor. The two screws that had been placed by Respondent had no significant soft tissue beneath them and they were removed.

CONCLUSIONS OF LAW

- 1. The Board of Medical Examiners of the State of Arizona possesses jurisdiction over the subject matter hereof and over Respondent.
- 2. The Board has received substantial evidence supporting the Findings of Fact described above and said findings constitute unprofessional conduct or other grounds for the Board to take disciplinary action.
- 3. The conduct and circumstances above in paragraphs 6, 7, 10, 11, and 13 constitute unprofessional conduct pursuant to A.R.S. § 32-1401 (25)(q) "[a]ny conduct or practice which is or might be harmful or dangerous to the health of the patient or the public."

<u>ORDER</u>

Based upon the foregoing Findings of Fact and Conclusions of Law,

IT IS HEREBY ORDERED that:

1. Respondent is hereby issued a Letter of Reprimand for the unprofessional conduct described above, including unsatisfactory treatment of a postoperative wound and inserting hardware into an infected wound.

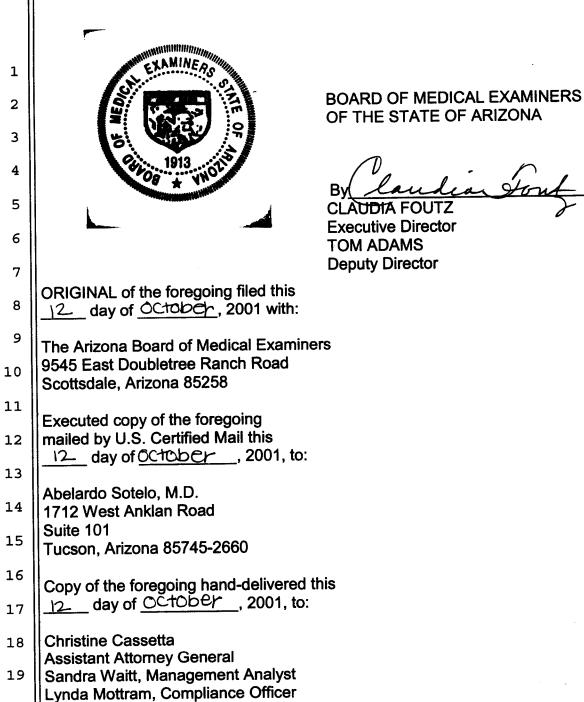
- 2. Respondent is placed on Probation for one year with the following terms and conditions:
- a. Respondent shall within one year of the effective date of this Order, obtain 20 hours of Board staff pre-approved Category I Continuing Medical Education (CME) in the area of infectious disease. Respondent shall provide Board staff with satisfactory proof of attendance. The CME hours shall be in addition to the hours required for biennial renewal of Respondent's medical license.

RIGHT TO PETITION FOR REVIEW

Respondent is hereby notified that he has the right to petition for a rehearing. Pursuant to A.R.S. § 41-1092.09, as amended, the petition for rehearing must be filed with the Board's Executive Director within thirty (30) days after service of this Order and pursuant to A.A.C. R4-16-102, it must set forth legally sufficient reasons for granting a rehearing. Service of this order is effective five (5) days after date of mailing. If a motion for rehearing is not filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to Respondent.

Respondent is further notified that the filing of a motion for rehearing is required to preserve any rights of appeal to the Superior Court.

DATED this 12th day of October 2001.



Lisa Maxie-Mullins, Legal Coordinator (Investigation File)

Arizona Board of Medical Examiners

9545 East Doubletree Ranch Road

Scottsdale, Arizona 85258

20

21

22

23

24

25