BEFORE THE
NORTH CAROLINA MEDICAL BOARD

In re: )
) ) CONSENT ORDER
Celia Maria Mendes, M.D., )
) Respondent.

This matter is before the North Carolina Medical Board ("Board") regarding information provided to the Board concerning Celia Maria Mendes, M.D. ("Dr. Mendes"). Dr. Mendes makes the following admissions and the Board makes the following findings and conclusions:

STATUTORY AUTHORITY

The Board is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted to it in Article 1 of Chapter 90 of the North Carolina General Statutes and the rules and regulations promulgated thereto.

FINDINGS OF FACT

Dr. Mendes was first issued a license to practice medicine by the Board on or about September 16, 1995, license number 9501337.

At all times relevant hereto, Dr. Mendes practiced medicine in Fayetteville and Raleigh, North Carolina.
Dr. Mendes is board certified in obstetrics and gynecology. She has maintained a full and unrestricted medical license throughout her career. She has completed training and obtained multiple certifications in cosmetic medicine and aesthetics. Dr. Mendes has owned and operated her own practice, Celia Mendes, M.D., PA, in Fayetteville since 2002. What started as a gynecology practice was broadened to include cosmetic procedures in 2003 and eventually liposuction in 2012.

In November/December 2014, Dr. Mendes was approached about performing liposuction at HDW of Raleigh, Inc., d/b/a Pure Cosmetic and Surgical Center (“Pure Med Spa”) in Raleigh. Pure Med Spa offered a wide range of cosmetic procedures, such as laser hair removal, Botox®, cool sculpting, filler injections, and liposuction. Pure Med Spa’s Medical Director at that time was a licensee of the Board. The financial, marketing, and operations aspects of Pure Med Spa were managed by non-physicians.

In January 2015, Dr. Mendes started performing liposuction as an independent contractor at Pure Med Spa two days per week. During this time, Dr. Mendes continued providing services at her Fayetteville practice four days per week.

In June 2016, Dr. Mendes was asked to take on the role of Medical Director at Pure Med Spa. As Medical Director, Dr. Mendes was responsible for supervising all providers on all
medical procedures performed at Pure Med Spa. She reports that she established clinical practices and protocols to screen patients for medically appropriate procedures and to otherwise ensure patient safety and quality of care. Dr. Mendes states that she was physically present at Pure Med Spa two-three days per week to evaluate and treat patients, as well as to perform her supervisory duties. Dr. Mendes continued treating patients at her Fayetteville practice three-four days per week.

As a general rule, with few exceptions, none of which are applicable here, a business entity that engages in the practice of medicine must be owned by licensees of the Board. This is known as the Corporate Practice of Medicine doctrine.

For all intent and purposes, Pure Med Spa was largely owned and operated by non-licensees. Dr. Mendes reports she was unaware that business entities providing medical services must be fully owned and operated by licensees. It was never Dr. Mendes’ intent to become a “straw owner.” She never intended to circumvent the Corporate Practice of Medicine doctrine or otherwise avoid her ethical responsibilities as a medical provider. Dr. Mendes maintains she unintentionally aided and abetted the corporate practice of medicine by providing medical services at a practice that was largely controlled and operated by a non-licensee. Dr. Mendes’ compensation arrangement was set up in the same manner as it had been for Pure Med Spa’s former
Medical Director. Dr. Mendes was compensated on a monthly basis for serving as Medical Director, and she retained a percentage of the fees collected for her medical services. Pure Med Spa retained all other revenue. Dr. Mendes reports she was unaware that her fee arrangement constituted unethical fee splitting.

Dr. Mendes provided information that once she was informed that her business arrangement with Pure Med Spa may not be in compliance with North Carolina law and Board rules, she immediately took steps to come into compliance therewith. At all relevant times, Dr. Mendes has communicated openly and cooperated fully with the Board in its investigation of this matter.

Patient A presented to Pure Med Spa in June 2017. He initially expressed interest in cool sculpting because his wife won a gift certificate for that treatment. Unbeknownst to Dr. Mendes, Patient A was deemed to be a candidate for liposuction by Pure Med Spa staff. Also, unbeknownst to Dr. Mendes, Patient A elected to have liposuction, paid a deposit, and obtained a loan for $7,300.00 to pay for the procedure. Pure Med Spa staff assisted Patient A in obtaining the loan. Thereafter, Patient A cancelled the procedure two days before it was scheduled to take place and demanded a refund. The staff at Pure Med Spa refused. Instead, Patient A was given a credit for other services rather than a refund due to Pure Med Spa’s non-refund policy. He
applied a portion of the credit to two cool sculpting sessions. He was later issued a full refund after continued protestations and after his spouse filed a complaint with the Board.

Dr. Mendes did not learn of Patient A until she was notified of the Board’s investigation. Dr. Mendes never evaluated or examined Patient A, never reviewed Patient A’s medical history, and was never consulted about Patient A. Furthermore, Dr. Mendes had no involvement in the loan or payment process, or the decision to refuse a refund.

It is unethical for a physician to retain an unearned fee. Although physicians may charge a reasonable cancelation fee, it is unethical for a physician to keep an unearned fee for a procedure that is never performed and for which the patient is not a suitable candidate for the procedure.

Dr. Mendes provided information tending to show that Pure Med Spa staff violated the practice’s policy that Dr. Mendes personally evaluate all potential liposuction patients to assess whether the procedure is clinically necessary or contraindicated. Retrospectively, Dr. Mendes does not believe Patient A was a candidate for liposuction for many reasons.

Dr. Mendes reports she was disappointed to learn of the events that transpired with respect to Patient A. Dr. Mendes has addressed the foregoing concerns with the staff to ensure it does not happen again. Despite her lack of personal involvement
with Patient A and the surrounding events, Dr. Mendes accepts responsibility as the supervising physician.

CONCLUSIONS OF LAW

Although Dr. Mendes was unaware that her business and compensation arrangements with Pure Med Spa as set forth above was in violation of the Board rules, she acknowledges that her actions constitute unprofessional conduct within the meaning of N.C. Gen. Stat. § 90-14(a)(6), and that grounds exist under this section of the North Carolina General Statutes for the Board to annul, suspend, revoke, condition or limit Dr. Mendes' license to practice medicine or to deny any application she might make in the future.

PROCEDURAL STIPULATIONS

Dr. Mendes acknowledges and agrees that the Board has jurisdiction over her and over the subject matter of this case.

Dr. Mendes knowingly waives her right to any hearing and to any judicial review or appeal in this case.

Dr. Mendes acknowledges that she has read and understands this Consent Order and enters into it voluntarily.

Dr. Mendes desires to resolve this matter without the need for more formal proceedings.

The Board has determined that the facts and circumstances of this case do not warrant or require a restriction or
limitation to be placed on Dr. Mendes’ license, and that it is in the public interest to resolve this case as set forth below.

**ORDER**

NOW, THEREFORE, with Dr. Mendes’ consent, it is ORDERED that:

1. Dr. Mendes hereby receives a PUBLIC LETTER OF CONCERN.

2. Dr. Mendes shall obey all laws. Likewise, she shall obey all rules and regulations involving the practice of medicine.

3. Dr. Mendes shall meet with the Board or members of the Board for an investigative interview at such times as requested by the Board.

4. Upon request, Dr. Mendes shall provide the Board with any information the Board deems necessary to verify compliance with the terms and conditions of this Consent Order.

5. If Dr. Mendes fails to comply with any of the terms of this Consent Order, that failure shall constitute unprofessional conduct within the meaning of N.C. Gen. Stat. § 90-14(a)(6) and shall be grounds, after any required notice and hearing, for the Board to annul, suspend or revoke her license and to deny any application she might make in the future or then have pending for a license.

6. This Consent Order shall take effect immediately upon its execution by both Dr. Mendes and the Board and it shall
continue in effect until specifically ordered otherwise by the Board.

7. Dr. Mendes hereby waives any requirement under any law or rule that this Consent Order be served on her.

8. Upon execution by Dr. Mendes and the Board, this Consent Order shall become a public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof. Additionally, it will be reported to persons, entities, agencies and clearinghouses as required and permitted by law including, but not limited to, the Federation of State Medical Boards and the National Practitioner Data Bank.

By Order of the North Carolina Medical Board this the 2nd day of ______April____, 2018.

NORTH CAROLINA MEDICAL BOARD

By: ____________________________

Timothy E. Lietz, M.D.
President
Consented to this the 29th day of March, 2018.

Celia Maria Mendes, M.D.

State of North Carolina
County of Cumberland

I, Dana L. Moore, do hereby certify that Celia Maria Mendes, M.D., personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 29th day of March, 2018.

Notary Public

My Commission Expires: 10/20/19

(Official Seal)