



Attorney General Of New Mexico

HECTOR H. BALDERAS
Attorney General

ELIZABETH A. GLENN
Chief Deputy Attorney General

December 1, 2015

Mr. Raymond Hamilton, Esq.
12424 Princess Jeanne NE
Albuquerque, New Mexico 87112

Re: Open Meetings Act Complaint – New Mexico Board of Dental Health Care

Dear Mr. Hamilton:

This Office has reviewed your July 21, 2015 letter on behalf of your client, Dr. Robert Belfon, DMD, to Attorney General Hector Balderas, alleging that the New Mexico Board of Dental Health Care (the “Board”) violated the Open Meetings Act, NMSA 1978, Sections 10-15-1 to -4 (1974, as amended through 2105) (the “Act”), earlier this year in connection with a disciplinary matter titled In the Matter of Dr. Robert Belfon, DMD, Case No. 12-68-COM.¹ Under Section 10-15-3(B) of the Open Meetings Act, the Attorney General and district attorneys are charged with enforcement of the Act. Section 10-15-3(B) also allows an individual such as your client to independently apply for enforcement through the district courts, “provided that the individual first provides written notice of the claimed violation to the public body.” See NMSA 1978, § 10-15-3(B).

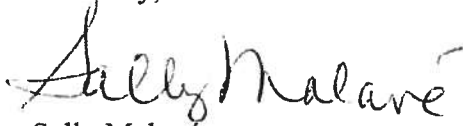
The policy of the Attorney General’s Office mandates that we abstain from opining on any matter that is the subject of pending litigation. This policy is maintained in deference to the authority and procedures of the judicial system. Because Dr. Belfon is currently the subject of a notice of contemplated action issued by the Board and because the Uniform Licensing Act confers upon Dr. Belfon the right to appeal any action taken by the Board in connection with that notice, including actions that allegedly may have been taken in violation of the Act, this office will not be conducting an inquiry of the alleged violations.

¹ We also have reviewed the documents submitted as enclosures with your letter, including Dr. Belfon’s Notice of Board Violation of the Open Meetings Act and Motion for Dismissal, dated July 17, 2015; the Second Amended Notice of Hearing issued on April 24, 2015 for Case No. 12-68-COM; certain electronic correspondence between you and Brian McBain, RLD Compliance Officer; Board Chair Dr. Charles Schumacher’s July 25, 2015 Response to Dr. Belfon’s Notice of Violation and Motion for Dismissal; Dr. Belfon’s Reply to Board Chair’s Response dated August 3, 2015; Notice of Reassignment of Hearing Officer dated April 9, 2015; your subsequent correspondence addressed to me; as well as relevant sections of the Uniform Licensing Act; and the Agenda and Minutes of the Board’s April 24, 2015 meeting.

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Thank you for providing our office with the opportunity to be of assistance to you. I regret that the assistance we offer is limited. I trust that you will understand the inappropriateness of this office's further involvement in your client's potential appeal of any action taken by the Board.

Sincerely,

A handwritten signature in cursive script that reads "Sally Malave". The signature is written in black ink and is positioned above the printed name and title.

Sally Malave
Assistant Attorney General

Cc: Dr. Charles Schumacher, Board Chair

Received
7/24/15
11:55 A.M.
RM

**Raymond Hamilton
Attorney at Law**

7/21/2015

Attorney General Hector Balderas
Office of the Attorney General
408 Galisteo Street
Villagra Building
Santa Fe, NM 87501

Re: Violation of Open Meetings Act by NM Board of Dental Health Care

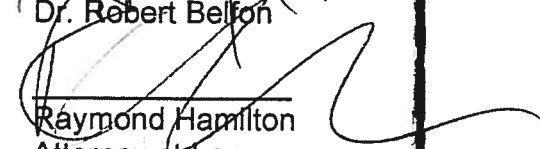
Dear Attorney General Balderas:

Dr. Robert Belfon hereby requests the Attorney General investigate, pursuant to Sec. 10-15-3 B, NMSA, his claim of violations of the Open Meetings Act ("ACT"), by the New Mexico Board of Dental Health Care ("Board"). Dr. Belfon submits the Board violated the ACT by taking specific and substantive actions against him in the Board's meeting of April 24, 2015, not recorded in the Minutes, and not preceded by a vote for a closed session. The actions, taken off-record, including arbitrarily and unilaterally ordering a hearing be vacated only a few days before the setting, and deciding to not negotiate with Dr. Belfon or consider his proposal to resolve the matter, **were not preceded by a motion for closure in the Minutes.** To compound the violations, the Board Minutes record regarding (Dr. Belfon), that "**12-68-COM No Action was taken by the Board on this item, item was not discussed.**" To avoid repetition, and to document the claims of Dr. Belfon, his **Notice of Board Violation of the Open Meetings Act** is provided herewith, with supporting exhibits.

The **Notice** provided written notice to the Board of his claimed violations. Dr. Belfon requests the Attorney General investigate and, if appropriate, seek a penalty pursuant to Sec. 10-15-4.

Sincerely,


Dr. Robert Belfon


Raymond Hamilton
Attorney at Law

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