

**STATE OF NEW HAMPSHIRE  
BOARD OF NURSING  
CONCORD, NH 03301**

In the Matter of:  
**Heather Tempest, RN**  
**License #070221-21**

Docket# 24-NUR-0005

**SETTLEMENT AGREEMENT**

In order to avoid the delay and expense of further proceedings and to promote the best interests of the public and the practice of nursing, the New Hampshire Board of Nursing (“Board”) and Heather Tempest (“Respondent”), a registered nurse licensed by the Board, do hereby stipulate and agree to resolve certain allegations of violations of rules and laws regulating the profession now pending before the Board in accordance with the following terms and conditions:

1. Pursuant to NH RSA 310:9, RSA 310:10, RSA 326-B:4, VII and Board of Nursing Administrative Rule (“Nur”) 207, 208, and 211, the Board has jurisdiction to investigate and adjudicate allegations of professional misconduct committed by the Board’s licensees.
2. Pursuant to NH RSA 310:10, VIII and Nur 211.02(c), the Board may, at any time, dispose of such allegations by settlement and without commencing a disciplinary hearing.
3. The Board first granted Respondent a license to practice as a registered nurse in the state of New Hampshire on 07/17/14. Respondent holds NH multistate license number 070221-21, which expires on 11/01/2025.

4. In response to information received on 06/24/2021, from Susan Martinen of Catholic Medical Center, Manchester, NH, the Board voted on 06/28/2021, to emergently suspend the Respondent's pending a ten-day emergency hearing. Following the Emergency Hearing held on 07/01/2021, the Board issued *Order Vacating Emergency Suspension – 07/13/21* finding that although the Licensee did not handle the situation appropriately, there is no evidence that her continuing to practice would rise to the level of causing an immediate threat to public health, safety, or welfare. Following additional investigation by OPLC Enforcement, the Board voted to initiate a final adjudicative disciplinary hearing in the matter.
5. Respondent stipulates to the following facts:
  - A. At all times relevant, Respondent held an active RN license.
  - B. Respondent has no prior discipline.
  - C. On 06/11/2021, Respondent was the nightshift charge nurse on ICU West at Catholic Medical Center, Manchester, NH.
  - D. About midnight during the shift, James Kelly, RN informed the Respondent that he had planted an audio/video recording pen device in the staff bathroom, and that the device was lost.
  - E. Mr. Kelly later informed the Respondent that he had recovered the pen device from another nurse.
  - F. At the end of the shift, Respondent told the nurse who returned the pen device to Mr. Kelly about the true nature of the device, then went home.
  - G. The Respondent returned that evening to work the subsequent nightshift and reported the actions of Mr. Kelly to hospital administration and security.

- H. The Respondent proactively completed two continuing education courses, for a total of 7.6 hours: “Professional Accountability and Legal Liability for Nurses” and “Righting a Wrong – Ethics & Professionalism in Nursing.”
6. The Board finds that Respondent committed the acts described above and concludes that, by engaging in such conduct, Respondent violated NH RSA 326-B:37, II (m) for failure to timely report threatening behavior in the workplace.
7. Respondent acknowledges that the allegations and facts set forth in paragraph 5 constitutes grounds for the Board to impose disciplinary sanctions against Respondent’s License to practice as a registered nurse in the State of New Hampshire.
8. WHEREFORE, Respondent consents to the Board imposing the following discipline, pursuant to RSA 310:12:
- A. Respondent is **REPRIMANDED**.
- B. Respondent is assessed an **ADMINISTRATIVE FINE** in the amount of two hundred and fifty dollars (\$250.00). Respondent shall pay this fine in full within forty-five (45) days of the effective date of this Settlement Agreement, as defined further below, by delivering a money order or bank check, made payable to “Treasurer, State of New Hampshire,” to the Board’s office at 7 Eagle Square, Concord, New Hampshire, 03301. No separate invoice shall issue. Payment shall include a copy of this Settlement Agreement or a note including the docket number and indicating the payment is made in compliance with a settlement agreement with the Board.
- C. Within ten (10) days of the effective date of this *Settlement Agreement* Respondent shall furnish a copy of the *Settlement Agreement* to any current

employer for whom Respondent performs nursing services or work which requires education, training, or degree in nursing or directly or indirectly involves patient and/or client care, and to any agency or authority which licenses, certifies or credentials nursing licensees, with which Respondent is presently affiliated.

- D. For a continuing period of one (1) year from the effective date of this agreement, Respondent shall furnish a copy of this Settlement Agreement to any employer to which Respondent may apply for work as an RN or work which requires and an educational degree or health license directly or indirectly involving patients or clients.
9. Respondent shall bear all costs required by this *Settlement Agreement* and shall be responsible for ensuring all payments are made, but Respondent shall be permitted to share such costs with third parties.
10. Respondent's breach of any terms or conditions of this *Settlement Agreement* shall constitute unprofessional conduct pursuant to RSA 326-B:37, II(h), and a separate and sufficient basis for further disciplinary action by the Board.
11. The Board may consider Respondent's compliance with the terms and conditions herein in any subsequent proceeding before the Board regarding Respondents' licenses.
12. The Board agrees that in return for Respondent executing this *Settlement Agreement*, the Board will not proceed with the formal adjudicatory process based upon the facts described herein. However, the Board may consider this misconduct as evidence of a pattern of conduct in the event that similar misconduct is proven against Respondent in the future. Additionally, the Board may consider the fact that discipline was imposed by

this Settlement Agreement as a factor in determining appropriate discipline should any future misconduct be proven against Respondent in the future.


13. This *Settlement Agreement* shall become a permanent part of the Respondent's file, which is maintained by the Board as a public document.
14. Respondent voluntarily enters into and signs this *Settlement Agreement* and states that no promises or representations have been made other than those terms and conditions expressly stated herein.
15. Respondent understands that entering into this *Settlement Agreement* is a final act and not subject to reconsideration, judicial review, or appeal.
16. Respondent agrees to support the adoption of this agreement by the Board.
17. Respondent understands that this agreement is an adverse action against Respondent's license and will be reported to all relevant jurisdictions.
18. Respondent has had the opportunity to seek and obtain the advice of an attorney of his choosing in connection with his decision to enter into this *Settlement Agreement*.
19. Respondent is not under the influence of any drugs or alcohol at the time s/he signs this *Settlement Agreement*.
20. Respondent understands that the Board must review and accept the terms of this *Settlement Agreement*. If the Board rejects any portion, the entire *Settlement Agreement* shall be null and void. Respondent specifically waives any claims that any disclosures made to the Board during its review of this *Settlement Agreement* has prejudiced Respondent's right to a fair and impartial hearing in the future if this *Settlement Agreement* is not accepted by the Board.

21. Respondent certifies that he has read this document titled *Settlement Agreement*. Respondent understands that s/he has the right to a formal adjudicatory hearing concerning this matter and that at said hearing he would possess the right to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his own behalf, to contest the allegations, to present oral argument, and to appeal to the courts. Further, Respondent fully understands the nature, quality and dimensions of these rights. Respondent understands that by signing this *Settlement Agreement*, s/he waives these rights as they pertain to the misconduct described herein.
22. This Settlement Agreement shall take effect as an Order of the Board on the date it is signed by an authorized representative of the Board and shall become final after 30 days pursuant to Plc 205.04.

[Signatures on next page.]

**FOR RESPONDENT**

Dated: April 15, 2024

  
Heather Tempest, RN  
Respondent

**FOR THE BOARD**

Accepted by the Board of Nursing on this 25<sup>th</sup> day of April, 2024 ("Effective Date").

J Webber 4/25/24  
(Signature)

J Webber  
Board Administrator  
Authorized Representative of the  
NH Board of Nursing

