

**State of New Hampshire
Board of Medicine
Concord, New Hampshire 03301**

In the Matter of:
Mark E. Splaine, M.D.
License No. 9131
(Misconduct Allegations)

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 medicine, the New Hampshire Board of Medicine (“Board”) and Mark E. Splaine, M.D. (“Dr. Splaine” or “Respondent”), a physician licensed by the Board, whose license expired on June 30, 2012, do hereby stipulate and agree to resolve certain allegations of professional misconduct now pending before the Board according to the following terms and conditions:

1. Pursuant to RSA 329:17, I; RSA 329:18; RSA 329:18-a; and Medical Administrative Rule (“Med”) 206 and 210, the Board has jurisdiction to investigate and adjudicate allegations of professional misconduct committed by physicians. Pursuant to RSA 329:18-a, III, the Board may, at any time, dispose of such allegations by settlement without conducting a disciplinary hearing.
2. The Board first granted Respondent a license to practice medicine in the State of New Hampshire on March 2, 1994. Respondent held license number 9131. Respondent most recently practiced internal medicine at Dartmouth-Hitchcock Medical Center (“DHMC”). Respondent currently is Director of Educational Programming at The Dartmouth Institute and Associate Professor of The Dartmouth Institute and of Community and Family Medicine at the Geisel School of Medicine.

3. In September of 2011, the Board received information from DHMC advising that Respondent had resigned his privileges in June of 2011 in lieu of disciplinary action by DHMC.
4. In response to receiving the information described above, the Board conducted an investigation and obtained information from various sources.
5. The following information was obtained during the course of the investigation:
 - A. Respondent had been practicing part-time general internal medicine at DHMC until his resignation on June 4, 2011.
 - B. Between 2005 and 2010, Respondent had completed billing forms, but had not completed a medical record, for over 2,000 patient encounters, representing approximately thirty-five (35) percent of the total number of patient encounters he performed during that time period.
 - C. In March of 2011, Respondent entered into an unrelated settlement agreement with the Board for conduct related a delay in diagnosing a patient's condition. Pursuant to that previous agreement, Respondent was ordered to complete certain continuing medical education credits within a specified time period and to provide the Board with proof of completion. The Respondent failed to provide proof of completion as required.
6. The Board has issued a Notice of Hearing ("NOH") in this matter. The original NOH was issued on February 3, 2012, to address the allegations set forth in paragraph 5A and 5B. An Amended NOH was issued on October 9, 2012, to include the allegation set forth in paragraph 5C. The Respondent's adjudicatory hearing is presently scheduled for June 5, 2013.

7. In an effort to avoid the delay and expense of further proceedings, Respondent agrees to the voluntary surrender of his license to practice medicine in the State of New Hampshire. Respondent understands that his license surrender will be reported by the Board as discipline. By entering into this *Settlement Agreement*, Respondent makes no admission of the factual allegations, of any wrongdoing, or of any violation of RSA 329.
8. Except as provided herein, this *Settlement Agreement* shall bar the commencement of disciplinary action by the Board based upon the misconduct described above and as alleged in paragraphs 5 and 6 of the Amended NOH issued on October 9, 2012. However, the Board may consider these facts and allegations of misconduct as evidence of a pattern of conduct in the event that similar misconduct is proven against Respondent in the future.
9. This *Settlement Agreement* shall become a permanent part of Respondent's file, which is maintained by the Board as a public document.
10. Respondent voluntarily enters into and signs this *Settlement Agreement* and states that no promises or representations have been made to him other than those terms and conditions expressly stated herein.
11. The Board agrees that in return for Respondent executing this *Settlement Agreement*, the Board will not proceed further with the disciplinary hearing scheduled for June 5, 2013, that is based upon the facts described herein and the allegations of misconduct set forth in paragraphs 5 and 6 of the Amended NOH issued on October 9, 2012.
12. Respondent understands that his action in entering into this *Settlement Agreement* is a final act and not subject to reconsideration or judicial review or appeal.

13. 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 agreement.
14. 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 claim that any disclosures made to the Board for its review of this *Settlement Agreement*, and any guidance or explanations provided to the parties by the Board resulting from that review, has prejudiced his right to a fair and impartial hearing, in the event this *Settlement Agreement* is not accepted by the Board and no other *Settlement Agreement* is presented to the Board thereafter.
15. The Respondent is not under the influence of any drugs or alcohol at the time he signs this *Settlement Agreement*.
16. Respondent certifies that he has read this document titled *Settlement Agreement*. Respondent understands that he has the right to a formal adjudicatory hearing concerning this matter and that at said hearing he would possess the rights 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, qualities and dimensions of these rights. Respondent understands that by signing this *Settlement Agreement*, he waives these rights as they pertain to the misconduct described herein.
17. The disposition of the disciplinary allegations referred to above and as set forth in paragraphs 5 and 6 of the Amended NOH issued on October 9, 2012 shall be resolved before any future application may be submitted by Respondent in New Hampshire.

18. The Respondent waives any issues of speedy hearing or spoliation of evidence should he apply for a license from the Board in the future.
19. 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.

FOR RESPONDENT

Date: 4/18/13

Mark E. Splaine
Mark E. Splaine, M.D.
Respondent

FOR THE BOARD/*

This proceeding is hereby terminated in accordance with the binding terms and conditions set forth above.

Date: May 3, 2013

Penny Taylor
(Signature)
PENNY TAYLOR
(Print or Type Name)
Authorized Representative of the
New Hampshire Board of Medicine

* Board members, recused:

Robert P. Cervenka, M.D.
