

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

In the Matter of:
William Foord, MD
License No: 5307
(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 William Foord, M.D. ("Dr. Foord" or "Respondent"), a physician licensed by the Board, 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 and without conducting a disciplinary hearing.
2. The Board first granted the Respondent a license to practice medicine in the State of New Hampshire in March of 1975. The Respondent holds license number 5307. At all relevant times, the Respondent has practiced as an ophthalmologist in Berlin, New Hampshire.
3. In early 2013, the Board received information indicating that the Respondent may be engaged in professional misconduct by inappropriately prescribing controlled substances to patients under his care. In response, the Board conducted a preliminary

investigation and obtained information from various sources pertaining to the Respondent's prescribing practices.

4. Based on the results of its preliminary investigation, the Board, on February 14, 2013, issued an Order of Emergency License Suspension of Prescribing Privileges against the Respondent and scheduled an immediate hearing on his suspension for February 20, 2013. Thereafter, the Board approved the Respondent's Preliminary Agreement For Practice Restrictions, under which he agreed to not prescribe any controlled substances (scheduled drugs II, III, IV and V) to any person in the State of New Hampshire until further order of the Board.
5. The Respondent stipulates that if a disciplinary hearing was held in this matter, the following information and evidence could be presented in support of proving professional misconduct under RSA 329:17, VI:
 - A. The Respondent practices as an ophthalmologist. He began treating patient P.G. in April of 2007 for recurrent chronic uveitis, primarily affecting her right eye. P.G. experienced persistent right eye inflammation, accompanied by elevated intraocular pressure, causing significant pain. Early in treatment, the Respondent prescribed controlled substances to manage P.G.'s pain. The Respondent continued to manage P.G.'s pain using controlled substances, primarily Oxycodone, from June of 2007 thru June of 2011. During that extended period of time, the Respondent attempted to manage P.G.'s pain himself instead of referring the patient to a pain specialist.

- B. The Board previously investigated the Respondent's prescribing practices with respect to patient P.G. On July 6, 2011, the Board issued a letter of concern to the Respondent, notifying him that the Board's investigation had revealed, in part, that he inappropriately prescribed pain medication to P.G. and had failed to timely refer her to a pain clinic.
- C. The Respondent continued to prescribe controlled substances for P.G. between July and December of 2011 that included Oxycodone and Alprazolam.
- D. Patient P.G. died on December 29, 2011. Her cause of death was acute intoxication from the combined effects of several drugs, including Oxycodone and Alprazolam.
- E. The Respondent began treating patient K.B. in March of 2008 for debilitating headaches localized behind each eye related to bilateral occipital muscle pain, painful temporals muscles, and anxiety and severe emotional stress. Between March of 2008 and May of 2011, the Respondent regularly prescribed the controlled substance Alprazolam (Xanax) for K.B. During that extended period of time, the Respondent attempted to manage K.B.'s symptoms himself instead of referring the patient to a specialist or for drug treatment, despite having reasonable grounds to believe that K.B. was dependent on Alprazolam.
- F. Between January of 2009 and July of 2010, the Respondent regularly prescribed the non-controlled drug Omeprazole DR 20 mg (Prilosec) for an immediate family member in violation of N.H. Medical Administrative Rule ("Med") 501.02(h) and AMA Code of Ethics Opinion 8.19. Between January

of 2009 and at least December of 2012, the Respondent regularly prescribed the non-controlled drug Sertraline HCL 100 mg (Zoloft) for an immediate family member in violation of Med 501.02(h) and AMA Code of Ethics Opinion 8.19.

G. Between February of 2009 and at least December of 2012, the Respondent at various times self-prescribed non-controlled substances for himself, to include Lipitor 40 mg, Omeprazole DR 20 mg, and Enalapril Maleate 20 mg in violation of Med 501.02(h) and AMA Code of Ethics Opinion 8.19.

6. The Board finds that the Respondent has engaged in certain conduct, as described above, and by doing so, has committed acts that provide sufficient grounds for imposing disciplinary sanctions under RSA 329:17, VI(c), RSA 329:17, VI(d), and RSA 329:17, VI(i).
7. The Respondent acknowledges that the conduct summarized above constitutes grounds for the Board to impose disciplinary sanctions against his license to practice as a physician in the State of New Hampshire.
8. The Respondent consents to the Board imposing the following discipline under RSA 329:17, VII:
 - A. The Respondent is Reprimanded.
 - B. The Respondent's prescribing privileges are hereby restricted as follows: The Respondent is permanently prohibited from prescribing scheduled II, III, IV and V controlled substances.

- C. The Respondent is assessed an Administrative Fine in the amount of \$2,000.00. The Respondent shall pay this fine in full within thirty (30) 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 121 South Fruit Street, Concord, New Hampshire 03301.
- D. The Respondent is required to meaningfully participate in eight (8) hours of Continuing Medical Education ("CME") focused on professional boundaries and medical ethics related to prescribing practices. These hours shall be in addition to the hours required by the Board for renewal of licensure and shall be completed within nine (9) months from the effective date of this *Settlement Agreement*. Within fifteen (15) days of completing these hours, the Respondent shall notify the Board and provide written proof of completion.
9. The Board may consider the Respondent's compliance with the terms and conditions herein in any subsequent proceeding before the Board regarding the Respondent's license.
10. Within ten (10) days of the effective date of this agreement, as defined further below, the Respondent shall furnish a copy of this *Settlement Agreement* to any current employer for whom the Respondent performs services as a physician or work which requires a medical degree and/or medical license or directly or indirectly involves patient care, and to any agency or authority which licenses, certifies or credentials physicians, with which Respondent is presently affiliated.

11. For a continuing period of two (2) years from the effective date of this agreement, the Respondent shall furnish a copy of this *Settlement Agreement* to any employer to which the Respondent may apply for work as a physician or for work in any capacity which requires a medical degree and/or medical license or directly or indirectly involves patient care, and to any agency or authority that licenses, certifies or credentials physicians, to which the Respondent may apply for any such professional privileges or recognition.
12. The Respondent's breach of any terms or conditions of this *Settlement Agreement* shall constitute unprofessional conduct pursuant to RSA 329:17, VI (d), and provide a separate and sufficient basis for further disciplinary action by the Board.
13. Except as provided herein, this *Settlement Agreement* shall bar the commencement of further disciplinary action by the Board based upon the misconduct described above. However, the Board may consider this misconduct as evidence in support of future discipline in the event that similar misconduct is proven against the Respondent in the future. Additionally, the Board may consider the fact that discipline was imposed by this Order as a factor in determining appropriate discipline should any further misconduct be proven against the Respondent in the future.
14. This *Settlement Agreement* shall become a permanent part of the Respondent's file, which is maintained by the Board as a public document.
15. The 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.

16. The Board agrees that in return for the Respondent executing this *Settlement Agreement*, the Board will not proceed with the formal adjudicatory process based upon the facts described herein.
17. The 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.
18. The 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. The 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. The Respondent specifically waives any claim that any disclosures made to the Board during its review of this *Settlement Agreement* have prejudiced his right to a fair and impartial hearing in the future, in the event this *Settlement Agreement* is not accepted by the Board.
20. The Respondent certifies that he has read this document titled *Settlement Agreement*. The 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 seek judicial review of a final Board decision. Further, the Respondent fully understands the nature, qualities and dimensions of these rights. The Respondent understands that by

signing this *Settlement Agreement*, he waives these rights as they pertain to the
misconduct described herein.

21. 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:

6/23/14

William Foord, MD
William Foord, MD
Respondent

FOR THE BOARD/*

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

Date:

7-9-2014

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

/*Recused Board Members not participating:

Michael Barr, MD &

Gail Barba, Public Member