

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

STATE OF NH
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NH BOARD

In the Matter of:

Anna M. Konopka, M.D., D.P., F.A.A.P.

License No.: ~~4254~~ 4245 (PK)
(Misconduct Allegations)

CONSENT DECREE

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 Anna M. Konopka, M.D., D.P., F.A.A.P. ("Dr. Konopka" 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 commencing a disciplinary hearing.
2. The Board first granted Respondent a license to practice medicine in the State of New Hampshire on April 16, 1968. Respondent holds license number ~~4254~~ 4245 (PK). Respondent practices pediatric medicine at her private practice in New London, New Hampshire.
3. On October 14, 2014 the Board received a complaint alleging, in part, improper prescribing practices by Respondent with regard to a specific child patient.

4. In response to this, the Board conducted an investigation and obtained information from various sources pertaining to Respondent's treatment and prescribing practices towards this child patient.
5. On April 13, 2016, the Board issued a Notice of Hearing. The hearing was originally scheduled to take place on September 7, 2016, but was continued twice due to scheduling conflicts.
6. While Respondent denies the allegations of misconduct, she stipulates that if a disciplinary hearing were to take place, Hearing Counsel may present evidence of the following facts upon which the Board could conclude that Respondent engaged in professional misconduct in violation of RSA 329:17, VI (c) and (d):
 - A. Respondent treated Patient JM from age eighteen (18) months to seven (7) years. Patient JM suffered from asthma and was treated with Theophylline, Dexamethasone, and Albuterol.
 - B. On many occasions Respondent prescribed Albuterol twice a day or as needed.
 - C. Respondent rarely noted Patient JM's weight in the record when prescribing Theophylline and generally left dosing up to Patient JM's parents. Respondent also never tested Patient JM's Theophylline levels.
 - D. Respondent did not attempt to treat Patient JM with a daily inhaled steroid.
 - E. On several occasions, Respondent prescribed Patient JM aspirin to help reduce fever and treat other ailments, even though aspirin is not recommended for children with asthma.

- F. On September 16, 2014, Patient JM (then seven years old) presented at Respondent's practice with fever and bronchitis after three days of home treatment by the mother. Following a physical examination of Patient JM, Respondent noted tachycardia and cardiac arrhythmia, which Respondent speculated was caused by an excess of Albuterol.
 - G. Following the physical examination Respondent discontinued the prescription of Albuterol and prescribed Patient JM Digoxin 0.125mg po BID #15 along with Theophylline, and Amoxicillin.
 - H. Respondent failed to confirm her diagnosis by ordering any additional tests, or consulting with a pediatric cardiologist prior to prescribing Digoxin.
- 7. The Board finds that Respondent committed the acts as described above in violation of RSA 329:17, VI (c) and (d).
 - 8. Respondent acknowledges that the above described conduct would constitute grounds for the Board to impose disciplinary sanctions against her license to practice as a physician in the State of New Hampshire.
 - 9. Respondent consents to the Board imposing the following discipline, pursuant to RSA 329:17, VII:
 - A. Respondent is REPRIMANDED.
 - B. Respondent is required to meaningfully participate in fourteen (14) hours of CONTINUING MEDICAL EDUCATION consisting of six (6) hours in the area of pediatric asthma, four (4) hours in the area of primary care pharmacology, and four (4) hours in the area of pediatric cardiology. These

hours shall be in addition to the hours required by the Board for renewal of licensure and shall be completed within six (6) months from the effective date of this *Consent Decree*. Within fifteen (15) days of completing these hours, Respondent shall notify the Board and provide written proof of completion. Respondent may apply the four (4) credits earned from a continuing medical education course, “2017 Pediatric Asthma & Allergy Updates for Primary Care Providers,” taken on March 17, 2017, toward the hours required for continuing education in the area of pediatric asthma.

- C. Respondent must read Section 3, Component 4 (Medications), Section 4 (Managing Asthma Long Term: Overview, in Children, in Youths, and in Special Situations), and Section 5 (Managing Exacerbations of Asthma) of the National Heart, Lung, and Blood Institute’s “Expert Panel Report 3: Guidelines for the Diagnosis and Management of Asthma” (“Panel Report”). Respondent must read the above referenced portions of the Panel Report within six (6) months from the effective date of this *Consent Decree* and then, within fifteen (15) days of doing so, certify in writing to the Board that she has completed this requirement. Completion of this requirement shall count as two (2) hours towards the hours required for continuing education in the area of pediatric asthma in Paragraph 9B of this *Consent Decree*, regardless of the amount of time it takes Respondent to read the above referenced portions of the Panel Report.

- D. For as long as she is licensed by this Board, Respondent must refer any diagnosed pediatric cardiac arrhythmia cases to a qualified pediatric cardiologist prior to providing any non-life sustaining treatment in such cases.
 - E. Within ten (10) days of the effective date of this agreement, as defined further below, Respondent shall furnish a copy of this *Consent Decree* to any current employer for whom 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.
 - F. For a continuing period of one (1) year from the effective date of this agreement, Respondent shall furnish a copy of this *Consent Decree* to any employer to which 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 Respondent may apply for any such professional privileges or recognition.
- 10. Respondent's breach of any terms or conditions of this *Consent Decree* shall constitute unprofessional conduct pursuant to RSA 329:17, VI (d), and a separate and sufficient basis for further disciplinary action by the Board.
 - 11. Except as provided herein, this *Consent Decree* 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 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 Order as a factor in determining appropriate discipline should any further misconduct be proven against Respondent in the future.

12. This *Consent Decree* shall become a permanent part of Respondent's file, which is maintained by the Board as a public document.
13. Respondent voluntarily enters into and signs this *Consent Decree* and states that no promises or representations have been made to her other than those terms and conditions expressly stated herein.
14. The Board agrees that in return for Respondent executing this *Consent Decree*, the Board will not proceed with the formal adjudicatory process based upon the facts described herein.
15. Respondent understands that her action in entering into this *Consent Decree* is a final act and not subject to reconsideration or judicial review or appeal.
16. Respondent has had the opportunity to seek and obtain the advice of an attorney of her choosing in connection with her decision to enter into this agreement.
17. Respondent understands that the Board must review and accept the terms of this *Consent Decree*. If the Board rejects any portion, the entire *Consent Decree* shall be null and void. Respondent specifically waives any claims that any disclosures made to the Board during its review of this *Consent Decree* have prejudiced her right to a

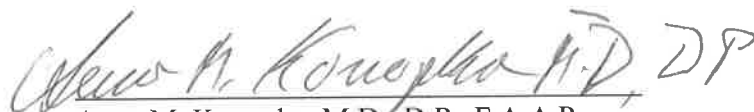
fair and impartial hearing in the future if this *Consent Decree* is not accepted by the Board.

18. Respondent is not under the influence of any drugs or alcohol at the time she signs this *Consent Decree*.
19. Respondent certifies that she has read this document titled *Consent Decree*. Respondent understands that she has the right to a formal adjudicatory hearing concerning this matter and that at said hearing she would possess the rights to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on her 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 *Consent Decree*, she waives these rights as they pertain to the misconduct described herein.
20. This *Consent Decree* 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:

4/24/17


Anna M. Konopka, M.D., D.P., F.A.A.P.
Respondent

MAY 03 2017

NH BOARD

N.H. Board of Medicine and Anna M. Konopka, M.D., D.P., F.A.A.P.
Settlement Agreement

FOR THE BOARD/*

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

Date: 5-12-17

Penny Taylor
(Signature)

PENNY TAYLOR
(Print or Type Name)

Authorized Representative of the
New Hampshire Board of Medicine

/*Board members, recused:
David Conway, MD
Frank B. Dibble, Jr., MD