

**STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL
LICENSURE AND CERTIFICATION**

BOARD OF MEDICINE

**In Re: Thomas Marks, MD
Lic. #7357**

Docket No.: 2023-MED-0004

**ORDER OF EMERGENCY
SUSPENSION - 01/26/23**

I. CASE SUMMARY/PROCEDURAL HISTORY:

On 01/25/23, the Office of Professional Licensure and Certification, Division of Enforcement (“OPLC Enforcement”), acting on behalf of the Board of Medicine (“Board”) , learned that Thomas Marks, M.D. (“Licensee”) had been arrested on charges of Aggravated Felonious Sexual Assault, Attempted Aggravated Felonious Sexual Assault, and Sexual Assault (x2). After an expedited investigation by OPLC Enforcement, the Board voted to suspend the Licensee’s license on an emergency basis pursuant RSA 541-A:30(III), RSA 319:18-b, and N.H. Code Admin. R., Title Med 409.01(a) ("Rules") and schedule an emergency license suspension hearing. This Order of Emergency Suspension follows.

II. LEGAL STANDARD:

“In cases in volving imminent danger to life or health, the board may order suspension of a license pending hearing for a period of no more than 120 days...” RSA 329:18-b. “When the board receives information indicating that a licensee has engaged in or is likely to engage in professional conduct which poses an immediate danger to life or health, the board shall issue an order pursuant to RSA 329:18-b which sets forth the alleged misconduct and immediately suspends the license for up to

120 days pending completion of an adjudicatory proceeding on the specified issues, which hearing shall be commenced within 10 days.” Rule 409.01(a).

III. EVIDENCE PRESENTED AND FINDINGS OF FACT:

A. Evidence Presented

The Board was presented with and/or considered the following evidence: 1) Testimony from OPLC Enforcement, Investigative Bureau Chief, Michael Porter, Esq.; 2) Verified Petition for Emergency Meeting of the New Hampshire Board of Medicine Consistent with RSA 91-A:2, II, RSA 329:7, III and MED 105.01 To Determine Whether An Emergency Suspension of Licensure is Warranted Pursuant To RSA 329:18-b; and 3) **SEALED** Affidavit in Support of Probable Cause.¹ The Board also relied on its expertise in the field it regulates, as well as Michael Porter’s training and experience as Investigative Bureau Chief. A review of the evidence presented, and the reasonable inferences taken there from, allows the Board to find the following facts.

B. Findings of Fact

The Licensee holds active physician’s license #7357 in the State of New Hampshire. On 01/25/23, the Sergeant Joshua Peavey of the Claremont Police Department informed OPLC Enforcement that it had arrested the Licensee on charges of Aggravated Felonious Sexual Assault, Attempted Aggravated Felonious Sexual Assault, and Sexual Assault (x2). In furtherance of its investigation into the matter, OPLC Enforcement obtained and reviewed the Claremont Police Department’s Affidavit in Support of Probable Cause to Arrest, which explains the basis for the charges and arrest of the Licensee. The alleged conduct involves unwanted touching of a patient’s private bodily areas and engaging in and attempting to engage in unwanted sexual acts with a patient.

IV. DISCUSSION AND FINDINGS OF FACTS / CONCLUSIONS OF LAW:

¹ It is unclear to the Board at this time whether the Affidavit in Support of Probable Cause to Arrest has become a public document. Therefore, it seals the document.

The Board finds there is a reasonable basis to suspend the Licensee's New Hampshire license on an emergency basis: namely the Licensee is actively licensed in New Hampshire, is alleged to have engaged in unwanted sexual contact and acts with a patient and has been arrested on charges stemming from that alleged conduct. The Licensee's conduct on its face demonstrates the Licensee poses an imminent threat to the New Hampshire public health, safety, and welfare, so as to warrant immediate emergency suspension of his physician's license pursuant to RSA 541-A:30(III) and RSA 329:18-b.

V. CONCLUSION AND DECISION:

Pursuant to RSAs 541-A:30(III) and 329:18-b, the Board hereby orders the immediate emergency suspension of Thomas Marks's license as a practicing physician, pending a follow up emergency hearing in this matter. A Notice of Emergency Hearing with an appropriate date/time shall follow forthwith.

DATED: 1/26/2023

____/s/ Nikolas Frye, Esq._____
Hearings Examiner
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