

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

BOARD OF MEDICINE

**In Re: Lawrence Gray, M.D.
Lic. # 7057**

Docket No.: 2023-MED-019

**ORDER ON RSA 310:12, IV
EMERGENCY LICENSE SUSPENSION
HEARING**

I. PARTICIPANTS:

Board Members:

Emily Baker, Board Chair and Board Member
Richard Kardell, Board Member
Jonathan Ballard, Board Member
David Goldberg, Board Member
Marc Bertrand, Board Member
Jonathan Eddinger, Board Member
Linda Tatarczuch, Board Member

Board Support Staff and Counsel:

Talia Wilson, OPLC Board Administrator
Teresa Boyer, OPLC Board Administrator
Attorney Shane Goulet, OPLC Board Counsel

Presiding Officer:

Attorney Nikolas Frye, OPLC Hearings Examiner

Parties:

John Garrigan, Esq., Hearing Counsel
Brad Holt, Esq., Counsel for Licensee
Lawrence Gray, M.D., Licensee

II. CASE SUMMARY/PROCEDURAL HISTORY:

On or about 07/17/2023, the Office of Professional Licensure and Certification, Division of Enforcement (“OPLC Enforcement”), acting on behalf of the Board of Medicine (“Board”), received a complaint alleging concerns that Lawrence Gray, MD (“Licensee”) had caused two of his patients to suffer unnecessary complications following surgical procedures he performed on them and had otherwise demonstrated incompetence to practice. OPLC Enforcement conducted an expedited investigation into the complaints, which yielded allegations that 1) since 2021 approximately 15-20 of the Licensee’s patients have had corrective reconstructive surgery by a different physician to rectify surgical errors made by the Licensee; 2) has incorrectly recited a patient’s surgical procedure; and 3) recently performed a wrong site surgery on a patient. On 07/21/23, the Board held an emergency meeting and voted to suspend the Licensee’s privilege to practice as a physician in New Hampshire on an emergency basis pursuant RSA 541-A:30(III); RSA 310:12, IV (eff. 07/01/23); and N.H. Code Admin. R., Title Plc 206.07 (“Rules”). On 08/02/23, the Board held an emergency license suspension hearing to determine whether the Licensee presented an imminent threat to public health, safety, or welfare such that his license should remain emergently suspended pending a full investigation and possible final disciplinary proceeding. This Final Decision and Order follows.

III. SUMMARY OF THE PROPOSED EVIDENCE AND EVIDENTIARY RULINGS:

The Board received the following evidence pursuant to RSA 541-A:33 and Rules 206.18(e) and 206.22:

a. Exhibits were filed by Hearing Counsel, labeled as follows:

1. Inv. Goulet and Inv. Davies Verified Petition for Emergency Suspension, dated July 19, 2023 (Bates #HC001-014);
2. Interview Report of Dr. Alexander Slocum, dated July 18, 2023 (Bates #HC015-023);
3. Interview Report of K.S., dated July 18, 2023 (Bates #HC024-026); *****Note: Personal Identifying Information of patient redacted pursuant to RSA 91-A:5, IV*****
4. Interview Report of K.W., dated July 18, 2023 (Bates #HC027-029); *****Note: Personal Identifying Information of patient redacted pursuant to RSA 91-A:5, IV*****

5. Interview Report of Colleen Bender, dated July 20, 2023 (Bates #HC037-039);
6. Interview Report of Licensee Lawrence Gray, dated July 26, 2023 (Bates #HC040-044);
7. Interview Report of Margo Trafton, dated July 25, 2023 (Bates #HC045-047);
8. Interview Report of Dr. Alexander Slocum, dated July 27, 2023 (Bates #HC048-053);
9. Interview Report of Zachary Chase, CRNA, dated July 28, 2023 (Bates #HC054-057);
10. Interview Report of Catherine Chen, PA, dated July 28, 2023 (Bates #058-061).
11. Medical Records for Licensee's Treatment of Patients Referenced in the Verified Petition. **SEALED pursuant to RSA 91-A:5, IV.**

b. Exhibits were filed by Licensee, labeled as follows:

- A. Lawrence Gray, M.D. Resume [Ex. A 000001-000003]
- B. 2023 Quad ASF certification dated 7/17/2023 Ex. B 000001-000002]
- C. Appledore Med. Group Documentation of Treatment [Ex C. 000001-000006]
- D. Atlantic Plastic Surgery Associates medical records for patient (**previously supplied**) "KW" [KR0001 – KW000094 – note that the Bates numbers were inadvertently prefixed with KR rather than KW] **Note Patient identifying information of specific pages to be introduced into evidence will be in redacted form though all parties have unredacted set.*
- E. Atlantic Plastic Surgery Associates medical records for patient (**previously supplied**) "KS" [KS00001 – KS000229] **Note Patient identifying information of specific pages to be introduced into evidence will be in redacted form though all parties have unredacted set.*
- F. Atlantic Plastic Surgery Associates medical records for patient (**previously supplied**) "MB" [MB00001 – MB000198] **Note Patient identifying information of specific pages to be introduced into evidence will be in redacted form though all parties have unredacted set.*
- G. Photographs by Ruth Gray of Dr. Slocum's personal effects on July 24, 2023 [Ex. G 000001-000007]
- H. New Hampshire Civil Jury Instruction 13/2 Informed Consent [Ex. H 000001-000002]
- I. Literature on breast surgery issues.
 - i. "Breast Massage, Implant Displacement, and Prevention of Capsular Contracture After Breast Augmentation with Implants: A Review of the Literature" [Ex I. 000001-000008]
 - ii. "Implant-based breast reconstruction and augmentation" [Ex. I 000009-000050]
 - iii. "Revision Breast Augmentation" [Ex I. 000051-000062]
 - iv. "Secondary Breast Augmentation" [Ex 000063-000079]

- v. “Nonsurgical treatment of capsular contracture: Review of clinical studies” [Ex I. 000080-000088]
- vi. “What is capsular contracture and how can it be treated?” [Ex I. 000089-000094]
- vii. “Complications of reconstructive and aesthetic breast surgery [Ex. I 000095-000144]

J. Dr. Gray’s July 29, 2023 letter to Jennifer Riddle [Ex. J 000001-000003]

c. Sworn testimony was received from:

1. Eric Goulet, OPLC Investigator (called by Hearing Counsel)
2. Zachary Chase, CRNA (called by Hearing Counsel)
3. Dr. Alexander Slocum (called by Hearing Counsel)
4. Michael Porter, OPLC Investigations Bureau Chief (called by Hearing Counsel)
5. Lawrence Gray, Licensee (called by Licensee)

The Presiding Officer held a prehearing conference before the hearing to determine the admissibility of testimony and exhibits. Afterward, the Presiding Officer fully admitted Hearing Counsel’s Exhibits 1-11, accepted the redactions contained in Exhibits 3 and 4, and sealed Exhibit 11. The Presiding Officer also fully admitted Licensee’s Exhibits A-C, G, and I; excluded Exhibits D-H; and reserved deciding on Exhibit J until the hearing.¹ Hearing Counsel’s Exhibit 11 was sealed and fully admitted in lieu of Licensee’s Exhibits D-F. The Presiding Officer also determined all proposed witnesses could testify subject to contemporaneous objections and extended the time of the hearing by one hour. *See* Prehearing Conference Order dated 08/02/2023.

IV. SUMMARY OF THE HEARING AND EVIDENCE PRESENTED:

The hearing was held pursuant to RSA 310:12, IV with the burden of proof, by a preponderance of the evidence, placed upon Hearing Counsel. *See* Rule 206.07(e). The sole issue was:

[w]hether the Licensee’s license should remain suspended pending adjudication of a final disciplinary proceeding in this matter because he presents an imminent danger to public health, safety, or welfare while licensed as a physician in the State of New Hampshire for the reasons set forth in the 07/19/23 “Verified Petition for Emergency Temporary

¹ During the hearing, the Licensee never moved to enter Exhibit J into evidence.

Suspension of Licensure Pursuant to RSA 310:12, IV and N. H. Code Admin.R. Title Plc 206.07” and the Board’s 07/21/23 “Order of Emergency Suspension.”

NOH at II.(d)(1).

The factual allegations germane to this limited inquiry were as follows:

... since at least 2021 the Licensee: 1) has performed at least 15-20 surgical errors that needed to be corrected by another physician; 2) had at least two patients that suffered serious complications from his work; 3) provided incorrect instructions for surgeries to patients and staff; 4) performed his work duties with shaking hands on multiple occasions, including at least one surgery; 5) has incorrectly site marked multiple patients; and 6) recently performed a wrong site surgery on a patient.

07/21/23 Ord. Emer. Susp., par. IV, page 3.

The Board heard evidence related to that inquiry as summarized below.

HEARING COUNSEL’S CASE-IN-CHIEF

Eric Goulet, OPLC Investigator

The Board took administrative notice of Eric Goulet’s training and experience and professional duties at OPLC. Mr. Goulet generally testified to the contents of Hearing Counsel’s Exhibits 1 through 10 on direct examination. The Licensee’s cross examination of Mr. Goulet revealed he has very limited medical training, did not speak with the Licensee during his investigation, and only obtained medical insight into the Licensee’s alleged conduct through Dr. Alexander Slocum, who is an associate plastic surgeon at the Licensee’s practice. The Board had no questions for Mr. Goulet.

Zachary Chase, CRNA

Zachary Chase testified to his training, experience, and qualifications as nurse anesthetist. He stated he routinely works as a nurse anesthetist on plastic surgeries performed by the Licensee. Mr. Chase’s testimony revealed that the Licensee has a hand tremor but so do many older New Hampshire surgeons. According to Mr. Chase, he has no reservations about the Licensee’s

proficiency as a surgeon, regardless of his tremor. Mr. Chase testified that demand for his services is great enough that he could choose not to work with the Licensee if he had concerns.

Nurse Chase next testified that there were select few times when the Licensee marked a patient in the surgery room, instead of doing so ahead of time. He also acknowledged being present for a surgery where the Licensee operated on a right-side contracture for patient M.B., even though the consent form indicated a left-side surgery. According to his testimony, the Licensee deviated from the surgery plan because it was obvious which side needed the work. Upon Board questioning, Nurse Chase confirmed that the procedure where the Licensee worked on M.B.'s right-side instead of the left-side was elective.

Dr. Alexander Slocum

Dr. Slocum began his testimony by explaining he has been a doctor for just under 3 years and has known the Licensee for approximately 4 years. According to Dr. Slocum's testimony, the Licensee is the owner and medical director at Atlantic Plastic Surgeries Associates in Portsmouth, New Hampshire where Dr. Slocum has worked for him as an associate for roughly 2 years.

Dr. Slocum next discussed some of the concerns he has with the Licensee's current practice. According to his testimony, on or about 06/23/23 the Licensee performed a surgery on the right-side of patient M.B., even though the consent form indicated the surgery should occur on the left-side. Dr. Slocum opined it was inappropriate for the Licensee to do this without obtaining consent from the patient or their emergency contact. Dr. Slocum also explained that he has seen some pre-surgery markings done by the Licensee, which he described as inadequate. When asked to explain what he meant by that statement, Dr. Slocum said the work would not pass for a 2-3 year resident in the field. Dr. Slocum also said he had performed 10-12 corrective surgeries on patients of the Licensee. He stated that in his opinion the Licensee had not delivered the

appropriate standard to these patients. When asked to clarify what he meant by the phrase appropriate standard, he said that he determines whether the appropriate standard was met by whether he would put a picture of the work performed up on his website. Dr. Slocum also said that he had observed the Licensee's tremor and spoken with him about the matter. According to his testimony, the Licensee said he intended to operate for the time being.

Michael Porter, OPLC Investigations Bureau Chief

Michael Porter testified briefly as to his training and experience as an OPLC investigator and his involvement in this matter. Mr. Porter stated that he spoke with the Licensee on a couple occasions about the concerns noted in the Verified Petition after the Board had already issued its Order of Emergency Suspension. Mr. Porter explained that the Licensee could have chosen to reschedule M.B.'s surgery instead of unilaterally deciding to perform surgery on her right-side.

LICENSEE'S CASE-IN-CHIEF

Lawrence Gray, M.D. (Licensee)

The Licensee testified to having 38 years of practice experience, participating in multiple plastic surgery conferences, and previously acting as an inspector for QUAD ASF. *See* Exh. A. The Licensee acknowledged that he has a hand tremor and takes medication, but the condition does not impact his ability to perform surgery.

The Licensee next reviewed and contextualized each concern involving a patient that was noted in the Board's Emergency Suspension Order. The Licensee confirmed that he performed surgery on the right-side of patient M.B., even though the left-side was indicated on the consent form. He explained there was no issue with M.B.'s left-side and the right-side was clearly the issue. He acknowledged having erred by not reexamining M.B. before the surgery. He stated he did what he believed was the appropriate thing to do under the circumstances when he moved

forward with the surgery instead of rescheduling it. He indicated that the patient was happy with the outcome.

With respect to patient K.S., who had a breast implant migrate to her armpit area, he stated that the post operation note for this patient says the breasts were in great shape and healing nicely. He highlighted that the follow-up appointment and referenced note were done by a doctor other than himself. According to his testimony, sometimes sutures are “spit out” instead of getting absorbed. Regarding patient K.W., who developed necrotic tissue on a breast after one of his surgeries, the Licensee testified the patient did not follow-up with him about the issue consistently, instead choosing to go to other hospitals. Exhibit 4 and SEALED Exhibit 11 show that the Licensee cultured the tissue for bacteria and then prescribed an antibiotic.

The Licensee estimated he has conducted 300 surgeries in the past year and his surgery complication rate is therefore well below the national standard of 25%. He also noted that at least one of the patients Dr. Slocum referenced in his testimony has had multiple surgeries since Dr. Slocum conducted his “corrective surgery”. Upon Board questioning, he clarified his practice for markings and explained that although he does not use all the methods same methods as Dr. Slocum, he follows standards accepted in the industry.

V. DISCUSSION, FINDINGS OF FACTS, AND CONCLUSIONS OF LAW:

After reviewing all the evidence, and accounting for the presentation and demeanor of all the witnesses, the Board finds the following findings of fact:

1. The Board first granted the Licensee a license to practice medicine on April 4, 1985.
2. The Licensee is currently listed as the President and Director of Atlantic Plastic Surgery Associates, P.A. 100 Griffin Road, Ste. 13, Portsmouth, NH 03801.
3. The Licensee is a plastic surgeon who performs breast reductions, lifts, and augmentations; lifts, tucks, and liposuction on the body; and rhinoplasty and other facial augmentations.

4. The Licensee has no prior disciplinary history.
5. The Licensee suffers from a tremor which causes his hands to “shake” regularly.
6. The Licensee’s co-workers have all observed his hands “shaking” during pre - operative and surgery procedures.
7. The Licensee’s tremor does not negatively impact his ability to perform his surgical duties.
8. Complainants K.W. and K.S. both suffered negative complications after having elective surgeries that were performed by the Licensee.
9. The evidentiary record did not represent that K.W. and KS’s complications were a result of the Licensee performing the surgeries with improper technique or procedure.
10. The Licensee has performed approximately 300 elective surgeries over the past year.
11. After receiving elective surgery from the Licensee, approximately 10-12 of his clients elected to undergo revision surgeries which were performed by Dr. Alexander Slocum in the Licensees clinic within the last two years.
12. The Board relied on its members collective professional knowledge and expertise that the revision rate on elective surgeries in the Licensee’s field of surgery is overall “high”.
13. Dr. Alexander Slocum and the Licensee’s testimony reflect that the Licensee’s revision rate is overall below average.
14. On 06/23/2023, the Licensee performed a wrong site surgery on patient M.B. without the consent of the patient.
15. Patient M.B. consented to permit the Licensee to perform a remove and replace of the left breast implant with capsulotomy on patient M.B.
16. On 06/23/2023, The Licensee performed a remove and replace of the right breast implant with capsulotomy on patient M.B. without authorization.
17. The Licensee’s “Client Consent Form” relative to the 06/23/2023 surgical procedure is grossly inadequate.

Based upon the findings of fact made by the Board, the Presiding Officer makes the following conclusions of law:

1. Pursuant to RSA 310:12, IV and Rule 206.07(e)(1), Hearing Counsel has not met their burden of proof that allowing the Licensee to remain practicing as a physician pending a full adjudication of this matter poses a threat to public health, safety, or welfare.
2. Pursuant to RSA 310:12, IV and Rule 206.07(e)(2), Hearing Counsel has not met their burden of proof that the threat to public health, safety, or welfare outweighs the Licensee's interests in continuing to practice.

VI. CONCLUSION AND DECISION:

Pursuant to RSA 310:12, IV, and Rule 206.07, the Presiding Officer and Board hereby lifts the emergency suspension of Lawrence Gray's privilege to practice as a physician in the State of New Hampshire. The Licensee may resume practicing.

DATED: 8/17/2023

_____/s/ Nikolas K. Frye, Esq._____
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Presiding Officer
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