

**STATE OF NEW HAMPSHIRE
NH BOARD OF MEDICINE
CONCORD, NH 03301**

In the Matter of:
Gerard S. O'Connor, M.D.
Med. Lic. 22589
(Reciprocal Board Action)

Docket No.: 22-MED-019

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 Gerard S. O'Connor, M.D., ("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, the Board has jurisdiction to adjudicate allegations of professional misconduct. Pursuant to Med 410.01, after receiving notice that the licensee has been subjected to disciplinary action by a licensing authority of another jurisdiction, the Board may impose reciprocal discipline provided the licensee is given an opportunity to demonstrate why discipline should not be imposed. 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 Temporary License, EL08102, on December 7, 2021, with expiration date of April 5, 2022. The Board then granted Respondent a Locum Tenens License, LT4037, on January 5, 2022, with an expiration date of

April 15, 2022. The Board then granted Respondent a full license on April 19, 2022. Respondent holds license number 22589, with expiration date of June 30, 2024.

3. On or about August 19, 2022, the Board issued a *Notice of Disciplinary Show Cause Hearing 9/7/22 @ 1:00 PM* providing the Respondent an opportunity to demonstrate why discipline should not be imposed.
4. Respondent stipulates that if a disciplinary show cause hearing were to take place, Hearing Counsel would be able to prove the following facts:
 - A. Respondent is a physician with a primary practice in Maryland. Respondent is also licensed New Hampshire.
 - B. Respondent is board-certified in general surgery.
 - C. The Respondent had surgical privileges at a medical facility in Kent County, Maryland until he retired on or about July 31, 2021.
 - D. On or about April 14, 2021, the Maryland Board of Medicine (the "Maryland Board") received a Mandated 10-Day Report (the "Report") from the Medical Facility, which alleged that the Respondent's privileges were "suspended for five days, effective 3/8/21-3/13/21[.]"
 - E. The Maryland Board then conducted an investigation, where it discovered the suspension of privileges were the result of complaints from multiple sources of unprofessional conduct in the operating room.
 - F. Respondent had allegedly called a surgical technologist "a retard", said to another surgical technologist "this is a figgin clown show", and other unprofessional comments to other individuals.
 - G. No complaints were filed by patients.

- H. Respondent was suspended for a week from the Medical Facility.
 - I. The Maryland Board and Respondent subsequently entered into a Consent Order on or about June 7, 2022, whereby the Respondent was placed on a one-year probation, ordered to take a continuing education course in workplace communications, and assessed a fine of \$5,000.
5. The Board finds that, if proven, the forgoing facts could form a basis for discipline under RSA 329:17, VI and Med 410.01.
6. To avoid the delay and expense of a hearing on this matter, and in light of the mitigating circumstances, the Board and the Respondent agree that so long as Respondent complies with the following conditions the Board will not impose reciprocal discipline pursuant to RSA 329:17, VII and Med 410.01. However, should Respondent fail to fully and completely comply with the following terms and conditions, he has agreed that discipline shall be imposed in the form of a Reprimand and all of the following conditions must be met.
- A. Respondent shall receive a letter of concern from the Board that addresses Board's concerns including but not limited to the Respondent's demeanor in the operating room and towards facility staff members in general.
 - B. Respondent shall demonstrate to the Board that the Respondent has successfully completed and complied with the terms and conditions ordered by the licensing authority (Maryland Board of Medicine) in which disciplinary action first originated.
 - C. Respondent is assessed an **ADMINISTRATIVE FINE** in the amount of \$500 with all to be suspended pending proof of compliance with the Maryland

Consent Decree dated June 31, 2022, namely proof of course completion and payment of assessed fine. Upon submission of proof of compliance, the fine suspension shall become permanent. Respondent shall pay this fine in full within forty-five (45) days of breach of this *Settlement Agreement* or the Maryland Consent Decree, by delivering a money order or bank check, made payable to "Treasurer, State of New Hampshire," to the Board's office at 7 Eagle Square, Concord, New Hampshire, 03301. Please include the following note with the check or money order: **Enclosed please find a check in the amount of \$500.00 for the administrative fine assessed by the Board of Medicine ("Board") in resolution of In the Matter of Gerard O'Connor as agreed to with the Board.**

- D. Respondent shall fully comply with the terms and conditions of any order by a licensing authority of another jurisdiction. Respondent has the affirmative duty to inform the Board of any non-compliance with any order by a licensing authority of another jurisdiction.
- E. Within ten (10) days of the effective date of this agreement, as defined further below, Respondent shall furnish a copy of the *Settlement Agreement* to any current employer for whom Respondent performs services that require a 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.

7. Respondent's breach of any terms or conditions of this *Settlement Agreement* shall constitute unprofessional conduct pursuant to RSA 329:17, VI (d), and a separate and sufficient basis for further disciplinary action by the Board.
8. The Board may consider Respondent's compliance with the terms and conditions herein in any subsequent proceeding before the Board regarding Respondent's license.
9. 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 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.
10. This *Settlement Agreement* shall become a permanent part of Respondent's file, which is maintained by the Board as a public document.
11. Respondent voluntarily enters into and signs this *Settlement Agreement* and states that no promises or representations have been made other than those terms and conditions expressly stated herein.
12. The Board agrees that in return for Respondent executing this *Settlement Agreement*, the Board will not proceed with the formal adjudicatory process based upon the facts described herein.
13. 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.
14. 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.

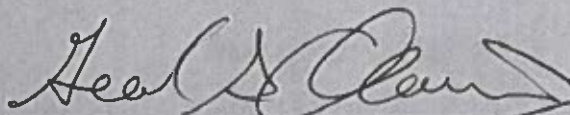
15. Respondent understands that the Board must review and accept the terms of this *Settlement Agreement*. If the Board rejects any portion, the entire *Settlement Agreement* shall be null and void. Respondent specifically waives any claims that any disclosures made to, or by, the Board involving its review of this *Settlement Agreement* have prejudiced his right to a fair and impartial hearing in the future if this *Settlement Agreement* is not accepted by the Board.
16. Respondent is not under the influence of any drugs or alcohol at the time he signs this *Settlement Agreement*.
17. Respondent certifies that he has read this document titled *Settlement Agreement*.
18. 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.
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.

[SIGNATURES ON NEXT PAGE]

In the Matter of Gerard O'Connor, M.D.
Settlement Agreement

FOR RESPONDENT

Date: 9/3/22

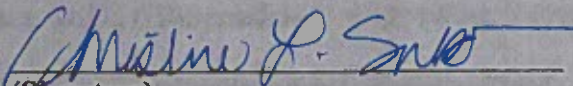


Gerard S. O'Connor, M.D.

FOR THE BOARD/*

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

Date: 9/23/2022


(Signature)

Christine L. Senko
(Print or Type name)

Authorized Representative of the
New Hampshire Board of Medicine

