

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

In the Matter of:
Michael P. DiPre, M.D.
No.: 10234
(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 Michael P. DiPre, M.D. ("Dr. DiPre" 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; 329:18 and 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 February 4, 1998. Respondent holds license number 10234. Respondent practices internal medicine at the Laconia Clinic located at 724 North Main Street, Laconia, New Hampshire.
3. The Board received information relating to Respondent's treatment of three patients, K.B., H.L. and J.S. Respondent treated J.S. from July 28, 2003 through May 15,

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2007. Respondent began treating K.B. on December 19, 2005 and he saw H.L. beginning on June 16, 2005.

4. In response to this, the Board conducted an investigation and obtained information from various sources pertaining to the following: Respondent's failure to keep accurate records and his failure to comply with the Board's investigator's requests in a timely fashion; his inappropriate prescribing practices; and his lack of follow-up with patients being treated for pain management, including his failure to deal with drug seeking behaviors.
5. Respondent stipulates that if a disciplinary hearing were to take place, Hearing Counsel would prove that Respondent engaged in professional misconduct, in violation of RSA 318-B:9; RSA 318-B:10; RSA 329:17, VI (c) and/or (d); RSA 329:18, VII; and Med. 501.02 (c), (d), (e), (h) and (i) by the following facts:
 - A. Respondent failed to maintain adequate documentation of his treatment of J.S. Respondent first treated J.S. on July 28, 2003. On August 25, 2003, J.S. had her second appointment with Respondent. Respondent documented the decision to "increase her methadone dose to 10 mg t.i.d." There was no notation or explanation provided in the treatment file that he or any other practitioner had previously prescribed methadone as part of J.S.'s treatment.
 - B. On or between September 13, 2004 and March 23, 2005, Respondent issued six prescriptions for J.S., which were not documented in the record. Respondent acknowledged treating J.S. on May 4, 2007 but there is no notation of this office visit in the treatment record.

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- C. Respondent failed to recognize or appropriately respond to signs of J.S.'s possible drug seeking behavior. On December 18, 2003, J.S. failed to appear for a drug screen collection. On January 21, 2004, a court ordered drug screen came up negative. The results were sent to the Laconia Clinic and they were initialed by Respondent. Respondent continued prescribing methadone to J.S. despite the negative test results and the treatment record failed to document how this result was discussed or what follow up plan was initiated in response.
- D. Respondent failed to adequately monitor J.S.'s treatment. Despite a negative drug screen on January 21, 2004, Respondent continued to prescribe methadone for J.S. when she was incarcerated from September 15, 2004 through March 23, 2005. Respondent wrote J.S. six prescriptions while she was incarcerated in jail. Respondent wrote three prescriptions for J.S. while she was incarcerated at the half-way house. While J.S. was incarcerated, these prescriptions were picked up at the Laconia Clinic by a third party and filled at Flowers Pharmacy.
- E. Respondent's inadequate monitoring continued after J.S. was released from jail and the half-way house. J.S. appeared for an office visit with Respondent on December 5, 2005. Despite a notation in the record on that date indicating that J.S. would now be seen on a monthly basis, Respondent did not see her again for ten months. Respondent continued prescribing methadone to J.S. during this ten-month period.

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- F. Although J.S. had signed a pain contract on November 24, 2003, Respondent was unaware of the existence of this contract and did not review it with J.S. after the positive drug screen in January of 2004 or order a review or amendment of its terms thereafter.
- G. Respondent failed to respond to the Board's investigator in a timely manner. In furtherance of its investigation, the Board requested that Respondent provide additional responses to the allegations by July 19, 2007. After receiving no response, the Board's investigator left three messages for Respondent. On August 23, 2007, Respondent contacted the investigator and indicated that he would fax his response immediately. Four days later, an unsigned and undated response was received.
- H. Respondent, H.L.'s primary care physician, treated H.L. on July 17, 2006. H.L. was a morbidly obese woman with a history of multiple prior abdominal surgeries with subsequent numerous incisional hernias. On July 16, 2007, H.L. had been admitted to the Lakes Region General Hospital emergency room with crampy abdominal pain, diarrhea, nausea and one emesis. The emergency room doctor diagnosed H.L. with enteritis and discharged her with instructions to see Respondent for follow-up. On the following day, the radiologist saw indications of a possible small bowel obstruction. Based on this information, the emergency room contacted H.L. to recommend seeing her primary care physician.

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- I. Respondent failed to maintain adequate documentation of H.L.'s treatment. Respondent had prescribed H.L. Demerol (meperidine) and promethazine. The records did not contain any documentation about the amount of meperidine and promethazine prescribed and there was no documentation about whether the medications were given to H.L. at the office or as a prescription filled by a pharmacy.
- J. Respondent failed to respond to the Board's investigator in a timely and complete manner. On November 20, 2007, the Board's investigator's inquired into the amount of meperidine administered and whether it was prescribed or administered in the office. A response was requested by December 5, 2007. Respondent did not provide a response to this particular inquiry. The Board sent Respondent a second request, asking for a response by February 8, 2008. On February 21, 2008 Respondent faxed a reply to the Board. Respondent failed to provide the Board with a complete answer to the Board's inquiry.
- K. Respondent first treated K.B. on December 19, 2005. K.B. died of a drug overdose on November 3, 2007. Respondent last treated K.B. on October 30, 2007. K.B. was also being treated by a psychiatrist who prescribed various psychotropic medications to her.
- L. On or about November 7, 2006, pharmacy records documented that K.B. had filled two prescriptions, each for 30 pills of Fiorinal and each written by Respondent. K.B.'s treatment record only documented one prescription written by Respondent prior to November 7, 2006.

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- M. Respondent failed to maintain a contemporaneous record of his treatment of K.B. in that he dictated notes up to twenty-one days after an appointment.
- N. Respondent failed to respond to the Board in a timely manner with regard to this investigation. The Board requested that Respondent reply by December 26, 2007. Respondent did not submit a response until January 10, 2008 – two weeks past the deadline.
6. The Board finds that Respondent committed the acts as described above and concludes that, by engaging in such conduct, Respondent violated RSA 318-B:9; RSA 318-B:10; RSA 329:17, VI (c), and (d); RSA 329:18, VI; Med. 501.02(d), (e), (h) and (i).
7. Respondent acknowledges that this conduct constitutes grounds for the Board to impose disciplinary sanctions against Respondent's license to practice as a physician in the State of New Hampshire.
8. Respondent consents to the Board imposing the following discipline, pursuant to RSA 329:17, VII:
- A. Respondent's license to prescribe Schedule II and III narcotics is **SUSPENDED** until further order of the Board and until Respondent has provided proof to the Board of successful completion of the Case Western Reserve School of Medicine Continuing Education Course on Controlled Substance Management which is next offered on December 2-5, 2008, or its equivalent, which is pre-approved by the Board.

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- B. In addition to completing the Case Western Reserve School of Medicine Continuing Medical Education Course in Controlled Substance Management or a pre-approved equivalent, Respondent is required to meaningfully participate in a program of twenty (20) continuing medical education credits (CME's) in the areas of documentation of medical records, and documentation of prescribing practices. All CME credits shall be obtained in addition to the credit hours required by the Board for renewal of licensure and shall be completed within one (1) year from the effective date of this *Settlement Agreement*. Within fifteen (15) days of completing these hours, Respondent shall notify the Board and provide written proof of completion.
- C. Respondent is assessed an ADMINISTRATIVE FINE in the amount of \$3,000 to be paid in three installments of \$1,000 each. The first payment shall be due within thirty (30) days of the effective date of this agreement. The remaining payments shall be due within thirty (30) days of the previous payment. All payments shall be made in the form of a money order or bank check made payable to "Treasurer, State of New Hampshire" and delivered to the Board's office at 2 Industrial Park Drive, Suite 8, Concord, New Hampshire.
- D. Respondent shall bear all costs of the training, supervision and reporting required by this *Settlement Agreement*, but he shall be permitted to share such costs with third parties.
- 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

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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 *Settlement Agreement* 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.
9. 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.
10. 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 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.

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11. This *Settlement Agreement* shall become a permanent part of Respondent's file, which is maintained by the Board as a public document.
12. 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.
13. 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.
14. 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.
15. 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.
16. 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 the Board during 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.
17. Respondent is not under the influence of any drugs or alcohol at the time he signs this *Settlement Agreement*.
18. Respondent certifies that he has read this document titled *Settlement Agreement*. Respondent understands that he has the right to a formal adjudicatory hearing

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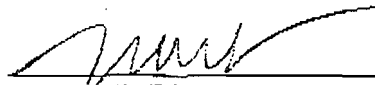
concerning this matter and that at said hearing he would possess the rights to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his own behalf, to contest the allegations, to present oral argument, and to appeal to the courts. Further, Respondent fully understands 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.

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FOR RESPONDENT

Date: 8/29/08

 DIPRE
Michael P. DiPre, M.D.
Respondent

Date: _____

Counsel for Respondent

FOR THE BOARD/*

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

Date: 10/22/08


(Signature)

PENNY TAYLOR
(Print or Type Name)
Authorized Representative of the
New Hampshire Board of Medicine

/* Board members, recused:
James Sise, M.D.

