

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

In the Matter of:
Rafael Tejada, M.D.
No. 12953
(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 Rafael Tejada, M.D. (“Dr. Tejada” 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 Rules (“Med”) 206 and 210, the Board has jurisdiction to investigate and adjudicate allegations of professional misconduct. 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 granted Respondent a license to practice medicine in the State of New Hampshire on November 2, 2005. Respondent holds license number 12953 and practices internal medicine as a hospitalist.
3. The Board received information relating to Respondent’s treatment of E.A., who on June 1, 2007, was admitted for epistaxis to the emergency room of the hospital in which Respondent works. On June 5, 2007, E.A. died of cardiopulmonary arrest and systemic shock from bilateral acute bronchopneumonia with systemic deoxygenation.

4. Following E.A.'s death, the Board conducted an investigation.
5. Respondent neither admits nor denies the allegations herein, but stipulates that if a disciplinary hearing were to take place, the Board could reasonably make the following findings to support the conclusion that Respondent engaged in professional misconduct as defined in RSA 329:17, VI(c) and/or (d):
 - A. E.A. was admitted to the emergency room in the early morning of June 1, 2007, with epistaxis (severe nosebleed). After attempts to stop the bleeding, the on-call otolaryngologist placed a right-side posterior nasal pack and bilateral anterior packs.
 - B. Although E.A.'s condition appeared to improve over the next couple days, he thereafter became increasingly confused and agitated late in the night of June 3 and into the morning of June 4. Responding to telephone calls from a nurse, Respondent attempted to calm E.A. by ordering Ativan, Geodon and soft wrist restraints, though because of his work with other patients Respondent did not visit E.A. until approximately three hours after the administration of Geodon and the application of soft wrist restraints. At no time was the packing removed or was E.A. transferred to the ICU for intubation.
 - C. The Ativan and Geodon may have contributed to the suppression of E.A.'s respiratory drive and may have contributed to E.A.'s death.
6. Respondent acknowledges that this conduct constitutes grounds for the Board to impose disciplinary sanctions against his license to practice as a physician in the State of New Hampshire. Respondent has cooperated in the Board's investigation.

7. 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 a program of twenty (20) continuing medical education credits (CMEs) in the area of emergency airway management. These hours shall be in addition to the hours required by the Board for renewal of licensure and shall be completed within eighteen (18) months 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 One Thousand Dollars (\$1,000.00). Respondent shall pay this fine in full within thirty (30) days of the effective date of this *Settlement Agreement*, as defined further below, by delivering a money order or bank check, made payable to "Treasurer, State of New Hampshire," to the Board's office at 2 Industrial Park Drive, Suite 8, Concord, New Hampshire.
 - D. 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 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.

- E. 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.
8. 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.
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 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.
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 to him 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 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.
16. Respondent is not under the influence of any drugs or alcohol at the time he signed this *Settlement Agreement*.
17. Respondent certifies that he has read this document titled *Settlement Agreement*. 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.

18. 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.

FOR RESPONDENT

Date: 6/12/11

Rafael Tejada
Rafael Tejada, MD
Respondent

Date: 6/23/11

Michael A. Pignatelli
Michael A. Pignatelli, Esquire
Counsel for Respondent

FOR THE BOARD*

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

Date: July 8, 2011

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

*Amy Feitelson, M.D., Robert P. Cervenka, M.D., Board members, recused.