

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

In the Matter of:
Michael J. O'Connell, M.D.
No.: 7690
(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 J. O'Connell, M.D. ("Dr. O'Connell" 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 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 August 5, 1987. Respondent holds license number 7690.
3. The Board received an anonymous complaint alleging that Respondent had engaged in inappropriate relationships.

4. In response to this, the Board conducted an investigation pursuant to RSA 329:18 and obtained information from various sources pertaining to Respondent's relationships with former patients.
5. The following information was obtained during the course of the investigation:
 - A. Respondent began treating Patient A's post-automobile-accident pain in 2001. After the treatment relationship ended, Respondent and Patient A commenced a romantic relationship.
 - B. Patient B was a female patient of Respondent's practice who received treatment for opioid addiction, primarily. Patient B was initially treated by physicians other than Respondent. In April 2007, Patient B first saw Respondent for an office visit. After several office visits Respondent transferred Patient B to another provider and sometime later Patient B and Respondent commenced a romantic relationship.
6. The Board has not issued a Notice of Hearing in this matter. In an effort to avoid the delay and expense of further proceedings, Respondent agrees to the permanent voluntary surrender of his license to practice medicine in the State of New Hampshire. Respondent understands that the license surrender will be reported as discipline. By entering into this Agreement, Respondent makes no admission of wrongdoing.
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 disciplinary action by the Board.

8. Except as provided herein, this *Settlement Agreement* shall bar the commencement of disciplinary action by the Board based upon the allegations of misconduct described above or other facts known to the Board through the anonymous complaint or as a result of its investigation. However, the Board may consider these facts and allegations of misconduct as evidence of a pattern of conduct in the event that similar misconduct is proven against Respondent in the future.
9. This *Settlement Agreement* shall become a permanent part of Respondent's file, which is maintained by the Board as a public document.
10. 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.
11. 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 or allegations of misconduct related to personal relationships with patients or former patients.
12. 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.
13. 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.
14. 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.

15. Respondent is not under the influence of any drugs or alcohol at the time he signs this *Settlement Agreement*.
16. 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.
17. The disposition of the disciplinary allegations referred to above shall be resolved before any future application may be submitted by the licensee in New Hampshire.
18. Respondent waives any issues of speedy hearing or spoliation of evidence should he apply for a license from the Board.
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.

FOR RESPONDENT

Date: 21 Dec 2011



Michael J. O'Connell, M.D.
Respondent

Date: _____

Cinde Warmington, Esq.
Counsel for Respondent

FOR THE BOARD*

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

Date: January 5, 2012



(Signature)

PENNY TAYLOR

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

* Board Members, recused:
Amy Feltelson, M.D.
