

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

In the Matter of:
Michael P. Dipre, M.D.
License No. 10234
(Adjudicatory Proceedings)

Docket No. 12-05

**ORDER OF EMERGENCY SUSPENSION
OF PRESCRIBING PRIVILEGES
AND NOTICE OF HEARING**

1. RSA 329:18-b; RSA 541-A:30, III; and New Hampshire Board of Medicine Administrative Rule (“Med”) 503.01 authorize the New Hampshire Board of Medicine (“Board”) to suspend a license to practice medicine for no more than one hundred twenty (120) days pending completion of an adjudicatory proceeding, in cases involving imminent danger to life or health. In such cases, the Board must commence a hearing not later than 10 days after the date of the emergency order. If the Board does not commence the hearing within 10 days, the suspension order shall be automatically vacated. *See*, RSA 541-A:30, III. The Board may not continue such a hearing without the consent of the licensee to the continuation of the emergency suspension. *See*, RSA 329:18-b and Med 503.01. Postponement of the proceeding is prohibited unless the licensee agrees to continue the suspension pending issuance of the Board’s final decision. *See*, RSA 329:18-b and Med 503.01.

2. Michael P. Dipre, M.D. (“Dr. Dipre” or “Respondent”) holds an active license, No. 10234, issued on February 4, 1998, to practice medicine in the State of New Hampshire. Respondent practices medicine in Laconia, New Hampshire.

3. The Board has received information indicating that Dr. Dipre's continued prescribing of controlled medications poses an imminent threat to life, safety and/or health, which warrants the temporary suspension of Dr. Dipre's privilege to prescribe controlled medications pending a hearing on whether permanent and/or temporary disciplinary sanctions should be imposed. An investigation was conducted and a Report of Investigation was provided to the Board.

4. In support of this *Order of Emergency License Suspension of Prescribing Privileges and Notice of Hearing*, the Board alleges the following facts:

- A. The Board previously disciplined Respondent by an October 22, 2008 Settlement Agreement. The underlying conduct included failure to adequately monitor and document treatment of pain patients being prescribed narcotics. In one case, Respondent unknowingly prescribed methadone for a patient who was incarcerated for six-months. The prescriptions were picked up by a third-party. Respondent also failed to maintain adequate documentation of his narcotics prescribing for numerous patients.
- B. Pursuant to the terms of the 2008 Settlement Agreement, Respondent's prescribing privileges for Schedule II and III narcotics were suspended pending successful completion of continuing medical education courses in documentation and prescribing.

- C. The Board restored Respondent's privileges to prescribe Schedule II and III narcotics on June 7, 2010.
- D. Despite this history, Respondent's prescription-related deficiencies have continued. Respondent began treating patient J.S. on July 8, 2011 when she was seen for hypothyroidism, and chronic neck and back pain. Respondent prescribed percocet but failed to document this prescription in the record. In his response to the Board, Respondent stated that J.S. has an intolerance to acetaminophen and could therefore not take vicodin or percocet. However, he prescribed J.S. percocet again on October 27, 2011.
- E. On October 17, 2011, J.S. was seen for a fall with back pain. According to the note, Respondent prescribed a prednisone taper and oxycodone. Only the oxycodone was documented in the medication log.
- F. Respondent prescribed six additional oxycodone prescriptions for J.S. between November 3, 2011 and December 16, 2011, for a total of 360 5mg oxycodone pills. There is no documentation for these prescriptions.
- G. Respondent failed to document a cause or rationale for prescribing this amount of oxycodone to J.S. over a six-week period.

5. Based upon the above information, the Board finds that the case involves imminent danger to life and/or health. Further, the Board believes there is a reasonable basis for both immediately suspending Respondent's privilege to prescribe controlled medication on a temporary basis, and for commencing an expedited disciplinary proceeding against Respondent pursuant to RSA 329:18-b, 541-A:30, III, and Med 503.01.

6. The purpose of this proceeding will be to determine whether Respondent has engaged in professional misconduct contrary to RSA 329:17, VI and RSA 329:18-b, which warrants the continued imposition of a temporary suspension, the imposition of permanent disciplinary sanctions, or both. The specific issues to be determined in this proceeding are:

- A. Whether, on or about July 8, 2011, Respondent committed professional misconduct by failing to document a prescription for percocet, after having been disciplined for the same issue, in violation of RSA 329:17, VI (c); and/or RSA 329:17, VI (d); and/or RSA 329:17, VI (k); and/or Med 501.02 (d); and/or Med 501.02 (e); and/or
- B. Whether on or between November 1, 2011 and December 31, 2011, Respondent committed professional misconduct by inappropriate prescribing of narcotics to J.S., in violation of RSA 329:17, VI (c); and/or RSA 329:17, VI (d); and/or
- C. Whether on or between November 1, 2011 through December 31, 2011, Respondent committed professional misconduct by failing to document numerous narcotic prescriptions for J.S., after having been disciplined

for the same issue, in violation of RSA 329:17, VI (c); and/or RSA 329:17, VI (d); and/or RSA 329:17, VI (k); and/or Med 501.02 (d); and/or Med 501.02 (e); and/or

D. If any of the above allegations are proven, whether and to what extent, Respondent should be subjected to one or more of the disciplinary sanctions authorized by RSA 329:17, VII.

7. While RSA 329:18-a requires that the Board furnish Respondent at least fifteen days' notice of allegations of professional misconduct and the date, time and place of an adjudicatory hearing, RSA 541-A:30, III and Med 503.01 require the Board to commence an adjudicatory hearing within ten (10) days after the date of an immediate, temporary license suspension order.

8. The Board intends to complete this adjudicative proceeding within the one hundred twenty (120) day time period provided by RSA 329:18-b and Med 503.01. Accordingly, neither the date of the initial evidentiary hearing nor the date for concluding this proceeding shall be postponed or extended unless Respondent agrees to continue the suspension period pending issuance of the Board's final decision in this matter. *See* RSA 329:18-b, 541-A:30, III, and Med 503.01.

THEREFORE, IT IS ORDERED that Respondent's privilege to prescribe controlled medications is immediately suspended until further order of the Board; and,

IT IS FURTHER ORDERED that an adjudicatory proceeding be commenced for the purpose of resolving the issues articulated above pursuant to RSA 329:17; 329:18-a; 329:18-

b; 541-A:30, III; and Med 503.01. To the extent that this order or the Board's rules do not address an issue of procedure, the Board shall apply the New Hampshire Department of Justice Rules, Part 800; and,

IT IS FURTHER ORDERED that Michael P. Dipre, M.D. shall appear before the Board on April 4, 2012 at 3:30 p.m., at the Board's office located at 2 Industrial Park Drive, Concord, N.H., to participate in an adjudicatory hearing and, if deemed appropriate, be subject to sanctions pursuant to RSA 329:17, VII; and,

IT IS FURTHER ORDERED that if Respondent elects to be represented by counsel, at Respondent's own expense, said counsel shall file a notice of appearance at the earliest date possible; and,

IT IS FURTHER ORDERED that Respondent's failure to appear at the time and place specified above may result in the hearing being held *in absentia* and disciplinary sanctions imposed without further notice or an opportunity to be heard; and,

IT IS FURTHER ORDERED that Assistant Attorney General Sarah T. Blodgett, 33 Capitol Street, Concord, N.H., 03301 is appointed to act as Hearing Counsel in this matter with all the authority within the scope of RSA Chapter 329 to represent the public interest. Hearing Counsel shall have the status of a party to this proceeding; and,

IT IS FURTHER ORDERED that Robert Andelman, M.D., President, or any other person whom he may designate, shall act as presiding officer in this proceeding; and,

IT IS FURTHER ORDERED that any proposed exhibits, motions or other documents intended to become part of the record in this proceeding, be filed by the proponent with the Board, in the form of an original and eleven (11) copies, and with an additional copy mailed

to any party to the proceeding, and to Elyse Alkalay, Esq., Counsel to the Board, N.H. Department of Justice, 33 Capitol Street, Concord, New Hampshire 03301. All responses or objections to such motions or other documents are to be filed in similar fashion within ten (10) days of receipt of such motion or other document unless otherwise ordered by the Board; and,

IT IS FURTHER ORDERED that a witness and exhibit list and any proposed exhibits, pre-marked for identification only, shall be filed with the Board no later than three (3) days before the date of the hearing. Respondent shall pre-mark his exhibits with capital letters, and Hearing Counsel shall pre-mark her exhibits with Arabic numerals; and,

IT IS FURTHER ORDERED that unless good cause exists, all motions shall be filed at least three (3) days before the date of any hearing, conference, event or deadline which would be affected by the requested relief, except any motion seeking to postpone a hearing or conference, which shall be filed at least ten (10) days before the hearing or conference in question; and,

IT IS FURTHER ORDERED that the entirety of all oral proceedings be recorded verbatim by the Board. Upon the request of any party made at least ten (10) days prior to the proceeding or conference or upon the Board's own initiative, a shorthand court reporter shall be provided at the hearing or conference and such record shall be transcribed by the Board if the requesting party or agency shall pay all reasonable costs for such transcription; and,

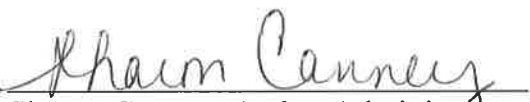
IT IS FURTHER ORDERED that all documents shall be filed with the Board by mailing or delivering them to Penny Taylor, Administrator, N.H. Board of Medicine, 2 Industrial Park Drive, Suite 8, Concord, New Hampshire 03301; and,

IT IS FURTHER ORDERED that routine procedural inquiries may be made by contacting Penny Taylor, Administrator, N.H. Board of Medicine, 2 Industrial Park Drive, Suite 8, Concord, New Hampshire 03301, (603) 271-1204, but that all other communications with the Board shall be in writing and filed as provided above. *Ex parte* communications are forbidden by statute and the Board's regulations; and,

IT IS FURTHER ORDERED that a copy of this Notice of Hearing shall be served upon Respondent by certified mail addressed to the office address he supplied to the Board in his latest renewal application. *See*, RSA 329:18, VI, Med. 501.02 (c) and RSA 329:16 (f). A copy shall also be delivered to Hearing Counsel.

BY ORDER OF THE BOARD/*

Dated: March 21, 2012


Sharon Canney, Acting Administrator
Authorized Representative of the
New Hampshire Board of Medicine

/* Recused Board members not participating:

Amy Feitelson, M.D.
