

**Before the  
New Hampshire Board of Medicine  
Concord, New Hampshire 03301**

**In The Matter Of:**

**Philip V. Maiorano, M.D.**  
License No.: 9305  
(Adjudicatory/Disciplinary Proceeding)

**Docket No.: 12-06**

**ORDER EXTENDING LICENSE SUSPENSION**

Before the New Hampshire Board of Medicine ("Board") is an adjudicatory/disciplinary proceeding In the Matter of Philip V. Maiorano, M.D. ("Respondent" or "Dr. Maiorano") in Docket Number 12-06.

**Background Information:**

On Friday, April 13, 2012, the Board received information indicating that the continued practice of medicine by Dr. Maiorano poses an imminent threat to life, safety and/or health. In response, the Board held an emergency meeting on Sunday, April 15, 2012. See RSA 329:7, III; RSA 91-A:2, II. Based on information contained in a report of investigation, the Board issued an Order of Emergency License Suspension and Notice of Hearing on Monday, April 16, 2012. See RSA 18-b; RSA 541-A:30, III. The license suspension went into effect Monday, April 16, 2012 and a hearing was scheduled for Thursday, April 19, 2012.

The Administrative Procedures Act provides, in pertinent part:

If the agency finds that public health, safety or welfare requires emergency action and incorporates a finding to that effect in its order, immediate suspension of a license may be ordered pending an adjudicative proceeding. The agency shall commence this adjudicative proceeding not later than 10 working days after the date of the agency order suspending the license. RSA 541-A:30, III.

The Board's practice act provides, in pertinent part:

In cases involving imminent danger to life or health, the board may order suspension of a license pending hearing for a period of no more than 120 days. In such cases, the basis for the board's finding of imminent danger to life or health shall be reduced to writing and combined with a hearing notice which complies with RSA 329:18-a. RSA 329:18-b.

Accordingly, the Board's Emergency License Suspension, issued in this matter on Monday, April 16, would have suspended the Respondent's license to practice medicine for 120 days from that date without a hearing. The Board, however, has opted to hold a hearing within 10 working days of the

order suspending the license to allow for a bifurcated proceeding. Accordingly, within this timeframe, the Board held a preliminary hearing to determine whether an 'imminent danger to life or health' warrants the Respondent's license to be suspended pending an investigation and adjudicatory hearing on the full merits and/or whether 'public health, safety or welfare requires [the] emergency action of the Respondent's license to be suspended pending an investigation and adjudicatory hearing on the full merits.

On Thursday, April 19, 2012, the Board held a preliminary hearing on the Emergency License Suspension. Board members present<sup>1</sup> at the adjudicatory/disciplinary hearing in the above captioned matter were:

Robert Andelman, President, Physician Member, Presiding Officer  
Mark Sullivan, Vice President, Physician Assistant Member  
Robert Vidaver, Physician Member, Commissioner's Designee  
Louis Rosenthal, Physician Member  
Nick Perencevich, Physician Member  
Gail Barba, Public Member  
Edmund Waters, Jr., Public Member

The prosecution was represented by Hearing Counsel Attorney Sarah Blodgett of the Administrative Prosecutions Unit ("APU") of the Office of the Attorney General. Dr. Maiorano did not attend the hearing nor did he send legal counsel. After preliminary testimony regarding service of the Order of Emergency License Suspension and Notice of Hearing, and Dr. Maiorano's discussions with the APU Investigator and Hearing Counsel regarding the Notice of Hearing and the date and time of the hearing, the presiding officer allowed the hearing to continue in absentia.

The following exhibits were introduced into evidence and accepted into the record:

- Hearing Counsel's exhibits: 1-3 (all exhibits have been sealed).
- The Respondent's exhibits: none.

#### **Findings of Fact:**

Todd Flanagan, the APU Investigator was the only witness to testify. The Board found Flanagan to be direct, forthright and credible. The Board further found Flanagan to be articulate, candid and persuasive.

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<sup>1</sup> These same Board members also deliberated and voted on this Final Decision and Order.

In the past two weeks, the Respondent has been exhibiting bizarre, disruptive and potentially violent behavior.

Based upon the exhibits and the entirety of the testimony at the hearing the Board finds:

1. On or between April 7, 2012 and April 13, 2012, the Respondent committed professional misconduct by exhibiting signs of mental and/or physical impairment such that his continued practice of medicine poses an imminent danger to the health and safety of the public, in violation of RSA 329:17, VI (d); and/or American Medical Association Code of Ethics ("AMA Code") 9.0305. See Order of Emergency License Suspension and Notice of Hearing dated April 16, 2012.
2. An imminent danger to life or health warrants the Respondent's license to be suspended pending an investigation and full adjudicatory proceeding. See RSA 329:18-b.
3. Public health, safety or welfare requires the emergency action of the Respondent's license to be suspended pending an investigation and adjudicatory proceeding. See RSA 541-A:30, III.

In addition, the Board strongly recommends to the Respondent and to other health care providers:

4. Further evaluation of the Respondent's psychiatric status with the aim of immediate emergency treatment, hospitalization, and if necessary, an involuntary emergency admission to New Hampshire Hospital.

**Action:**

IT IS ORDERED that the Respondent license is **SUSPENDED** until further order of this Board.

IT IS FURTHER ORDERED that an adjudicatory proceeding commence and this matter be given priority on the Board's calendar; namely that as soon as an investigation is complete, a new notice of hearing shall be issued to issue scheduling a full adjudicatory hearing.

IT IS FURTHER ORDERED that the Respondent's failure to comply with any terms or conditions imposed by this Final Decision and Order shall constitute unprofessional conduct pursuant to RSA

329:17, VI (d), and a separate and sufficient basis for disciplinary action by the Board against the Respondent.

IT IS FURTHER ORDERED that this Final Decision and Order shall become a permanent part of the Respondent's file, which is maintained by the Board as a public document.

IT IS FURTHER ORDERED that this Final Decision and Order shall take effect as an Order of the Board on the date an authorized representative of the Board signs it.

\*BY ORDER OF THE NH BOARD OF MEDICINE

Date: 4/20/2012

Penny Taylor  
(Signature)  
PENNY TAYLOR  
Penny Taylor, Administrator  
Authorized Representative of the  
New Hampshire Board of Medicine

\*\Board members John Wheeler, D.O. and Robert P. Cervenka, M.D. recused.