

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

**In The Matter Of:**

**Richard T. Cook, M.D.**  
(Adjudicatory Proceeding)

**Docket No.: 11-18**

**FINAL DECISION AND ORDER**

Before the New Hampshire Board of Medicine ("Board") is an adjudicatory proceeding in The Matter of Richard T. Cook ("Respondent" or "Dr. Cook") in Docket Number 11-18.

**Background Information**

On or about October 25, 2010, the Board received information from Atlantic Risk Management regarding a reservable claim. This was based on a death of a patient for whom Respondent had provided care. In furtherance of its investigation, the Board contacted Respondent to request a written response to the information in the claim, but Respondent repeatedly failed to provide a response. December 9, 2011 Notice of Hearing at ¶ 2. The Board commenced an investigation to determine whether Respondent committed professional misconduct for his failure to cooperate with the Board investigation. December 9, 2011 Notice of Hearing at ¶ 3. On December 9, 2011, the Board issued a Notice of Hearing. This hearing occurred on May 2, 2012.

On Wednesday May 2, 2012, at 1:00pm, the Board commenced with the adjudicatory hearing in the above captioned matter. Board members present<sup>1</sup> were:

Daniel Morrissey, O.P., Public Member, Presiding Officer  
Robert Andelman, M.D., Physician Member, President  
Mark Sullivan, Physician Assistant Member, Vice President  
Louis Rosenthal, M.D., Physician Member  
Nick Perencevich, M.D., Physician Member  
John Wheeler, D.O., Physician Member  
Robert Vidaver, M.D., Physician Member  
Amy Feitelson, M.D., Physician Member  
Edmund Waters, Jr., Public Member  
Gail Barba, Public Member

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

The prosecution was represented by Hearing Counsel Assistant Attorney General Sarah Blodgett of the Administrative Prosecutions Unit ("APU") of the Office of the Attorney General. Dr. Cook was not represented by counsel and did not appear at the hearing.

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

- Hearing Counsel's Exhibits 1-10

Dori Tohill, Investigator for the Board of Medicine was the only witness at the hearing. The Board found her testimony to be forthright, professional and credible.

#### **Relevant Law:**

##### **Statutes:**

RSA 329:17, VI

The board, after hearing, may take disciplinary action against any person licensed by it upon finding that the person:

- (d) Has engaged in dishonest or unprofessional conduct . . . ;
- (i) Has willfully or repeatedly violated any provision of this chapter or any substantive rule of the board.

RSA 329:17, VII

The board may at any time require a licensee or license applicant to provide a detailed, good faith written response to allegations of possible professional misconduct or grounds for non-disciplinary remedial action being investigated by the board. The board may also require the licensee or applicant to provide the board with complete copies of records concerning any patient whose treatment may be material to allegations of possible professional misconduct or grounds for non-disciplinary remedial action being investigated by the board. Licensees and applicants shall respond to either type of request within 15 days from the date of the request, or within such greater time as the board may specify.

##### **Administrative Rules**

Med 501.02(c)

A licensee shall cooperate with investigations and requests for information from the board and from other licensing or credentialing organizations.

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

In light of the testimony and exhibits, the Board finds the following facts:

1. Although not currently a licensee of the NH Board, Dr. Cook was licensed with a *locum tenens* license for a period of 100 days from April 5, 2010 to July 28, 2010.

During this period, Dr. Cook practiced medicine at Dartmouth-Hitchcock Medical Center in Lebanon, NH. Exhibit 1.

2. On or about October 25, 2010, the Board received information from Atlantic Risk Management regarding a reservable claim, based on the death of a patient for whom Dr. Cook may have provided care. Transcript ("Tr.") at 10.
3. Dori Tohill, Board Investigator sent a letter to 1540 Brookline Drive, Hummelstown, PA 17036, dated November 9, 2010 requesting that Dr. Cook review the matter and forward a written response to the Board of Medicine on or before December 7, 2010. Exhibit 2.
4. The address which Ms. Tohill sent her letter to was the same address that Dr. Cook provided on his application for *locum tenens* licensure in NH. Tr. at 11.
5. The Board of Medicine received a Notice of unclaimed certified mail on December 22, 2010. Exhibit 3.
6. At not time prior to this date did the Board receive notice that Dr. Cook had changed his address. Tr. at 11.
7. After Ms. Tohill's letter to Dr. Cook went unclaimed, Ms. Tohill requested the assistance of Investigator Todd Flanagan to determine whether the address for Dr. Cook was current. Tr. at 12.
8. Mr. Flanagan reached Dr. Cook by phone on February 2, 2011. During his phone conversation with Dr. Cook, Mr. Flanagan explained that he needed to respond to the complaint that had been filed and Mr. Flanagan confirmed that the address on file with the Board was Dr. Cook's current address. Tr. at 12-13.
9. After Mr. Flanagan's telephone conversation, Ms. Tohill sent a second letter, dated February 3, 2011, requesting that Dr. Cook review this matter and forward a written response before March 3, 2011. Exhibit 4.
10. A signed return receipt was received at the Board's office for the February 3, 2011 letter. Exhibit 5.
11. Dr. Cook did not respond to the February 3, 2011 letter by March 3, 2011. Tr. at 14.

12. Ms. Tothill sent a third letter, dated March 17, 2011 to the same address as the first two letters, again requesting that Dr. Cook review the matter and forward a written response by April 1, 2011. Exhibit 6.
13. The Board of Medicine received a Notice of unclaimed certified mail on April 20, 2011. Exhibit 7.
14. Dr. Cook never responded to the repeated requests for a response to the claim filed against him while he held a *locum tenens* license in the state of New Hampshire. Tr. at 19.
15. The Notice of Hearing, dated December 9, 2011, was sent to the same address on record. It was received and signed for at that address. Exhibit 8.

#### **Rulings of Law**

The Notice of Hearing dated December 9, 2011, states that the specific issues before the Board at the adjudicatory hearing were:

- A. Whether Respondent engaged in professional misconduct by failing to respond to the Board's requests that he provide a written response, in violation of RSA 329:17, VI(d); and/or RSA 329:17, VI(i); and/or RSA 329:18, VII; and/or Med 501.02(c).

The Board makes the following findings by a preponderance of the evidence:

Dr. Cook engaged in professional misconduct when he failed to provide a response on three separate occasions to written requests from the Board for a response to the matter concerning medical care he provided to a patient in NH while licensed as a physician in the State of NH. Specifically, the evidence at the hearing demonstrated that the Board sent its three letters to Dr. Cook to the correct address provided by Dr. Cook and confirmed by him as his address in a phone call from Investigator Todd Flanagan, and that Dr. Cook intentionally ignored requests to provide the information and response requested in those letters. Dr. Cook repeatedly and knowingly failed to respond to the Board's letter after he was no longer employed and practicing medicine in the State of NH, and in doing so violated RSA 329:17, VI(d), RSA 329:17, VI(i), RSA 329:18, VII and Med 501.029(c).

Based upon the Findings of Facts and Rulings of Law above<sup>2</sup>, the Board has voted to order the following:

IT IS ORDERED that the Respondent is REPRIMANDED.

IT IS FURTHER ORDERED that the Respondent is assessed an ADMINISTRATIVE FINE in the amount of five hundred dollars (\$500.00) due within thirty (30) days of the effective date of this Order. The Board's authorization for such action is RSA 329:17. The payment shall be made in the form of a money order or certified check made payable to "Treasurer, State of New Hampshire" and delivered to the Board's office at 2 Industrial Park Drive, Suite 8, Concord, NH 03301.

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 and/or unlawful practice and/or unlawful conduct, and a separate and sufficient basis for further 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.

Date: 6/8/2012

\*BY ORDER OF THE NEW HAMPSHIRE  
BOARD OF MEDICINE

Penny Taylor  
(Signature)

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

\*\Robert Cervenka, M.D., Board member, recused.

<sup>2</sup> The Board has reviewed Hearing Counsel's Proposed Findings of Fact and Rulings of Law. To the extent they are consistent with the above order, they are granted; to the extent they are not consistent, they are denied. Specifically, paragraphs 1, 2,3,4,5,6,7,8,9,10, 11 and 12 are granted.