

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

In the Matter of:  
Thomas G. Rousseau, P.A.  
No.: 426  
(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 Thomas G. Rousseau, P.A. (“Mr. Rousseau” or “Respondent”), a physician assistant 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 328-D:6; RSA 328-D:7; RSA 329:18; RSA 329:18-a; and Medical Administrative Rule (“Med”) 205 and 206, the Board has jurisdiction to investigate and adjudicate allegations of professional misconduct committed by physician assistants. 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 physician assistant license on March 6, 2002. Respondent holds license number 426. Respondent currently practices as a physician assistant with Southern New Hampshire Radiology Consultants, P.C., affiliated with Elliot Hospital in Manchester, New Hampshire. At the time relevant to the subject

matter of this *Settlement Agreement*, Respondent practiced in the emergency department of Elliot Hospital.

3. On January 10, 2012, the Board received a Writ of Summons from the Clerk of the Superior Court for the Northern District of Hillsborough in which the estate of patient J.A. alleges that Mr. Rousseau provided negligent care to J.A. when J.A. presented to the emergency department of Elliot Hospital on January 22, 2011.
4. In response to this, the Board conducted an investigation and obtained information from various sources pertaining to Respondent's care of J.A.
5. Respondent stipulates that if a disciplinary hearing were to take place, Hearing Counsel would prove that Respondent engaged in professional misconduct, in violation of RSA 328-D:6, IV, by the following facts:
  - A. J.A. was 36 years old when he presented to the Elliot Hospital emergency department on January 22, 2011, complaining of chest pain, flank pain and shortness of breath. The pain had been present for approximately one week and had shifted from J.A.'s left side to his right side during that time. It was noted in the medical chart that J.A. had stated that it was "hard to take a deep breath due to pain."
  - B. Approximately one month earlier, J.A. had undergone surgery to repair his Achilles tendon. When J.A. presented to Elliot Hospital on January 22, 2011, it was noted in the medical chart that he was wearing a surgical walking boot on his right foot.

- C. Upon examination, J.A.'s temperature was 99.2 degrees; his oxygen saturation was 93% on room air; he had a respiratory rate of 20; and his heart rate was 106. No rales, wheezes or rhonchi were noted. J.A. exhibited poor respiratory effort and diminished breath sounds.
  - D. Despite the recent Achilles surgery and the presence of the walking boot, no examination of J.A.'s calves or thighs was noted in the medical record.
  - E. Respondent ordered blood work and chest and back x-rays. The results of the blood work were unremarkable.
  - F. On a chest x-ray, Respondent noted "possible fluid or infiltrate." Respondent diagnosed J.A. with pneumonia. According to the medical chart, Respondent's supervising physician agreed with Respondent's findings.
  - G. J.A. was discharged with a prescription of azithromycin approximately three hours after his arrival in the emergency department.
  - H. J.A. died six days later due to a pulmonary thromboembolism; blood clots were found in his leg and lung.
  - I. When presented with a patient with a one-month history of Achilles surgery who is wearing a surgical boot and presenting with pain made worse by taking a deep breath, a pulmonary embolism should have been at the top of Respondent's list of concerns. Respondent failed to diagnose a pulmonary embolism, differentiate it, or write in the chart why he did not address it.
6. The Board finds that Respondent committed the acts as described above and concludes that, by engaging in such conduct, Respondent violated RSA 328-D:6, IV.

7. Respondent acknowledges that this conduct constitutes grounds for the Board to impose disciplinary sanctions against Respondent's license to practice as a physician assistant in the State of New Hampshire.
8. Respondent consents to the Board imposing the following discipline, pursuant to RSA 328-D:7:
  - A. Respondent is REPRIMANDED.
  - B. Respondent is required to meaningfully participate in 20 hours of continuing medical education in the area of high-risk emergency medicine, to include the subject of recognizing and diagnosing pulmonary embolisms. These hours shall be in addition to the hours required by the Board for renewal of licensure and shall be completed within one (1) year 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 shall bear all costs of the education and reporting required by this *Settlement Agreement*, but he shall be permitted to share such costs with third parties.
  - D. The Board may consider Respondent's compliance with the terms and conditions herein in any subsequent proceeding before the Board regarding Respondent's license.
  - E. 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

assistant 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 physician assistants, with which Respondent is presently affiliated.

- F. 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 assistant 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 physician assistants, to which Respondent may apply for any such professional privileges or recognition.
9. Respondent's breach of any terms or conditions of this *Settlement Agreement* shall constitute unprofessional conduct pursuant to RSA 328-D:6, IV, and a separate and sufficient basis for further disciplinary action by the Board.
10. 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.


11. This *Settlement Agreement* shall become a permanent part of Respondent's file, which is maintained by the Board as a public document.
12. 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.
13. 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.
14. 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.
15. 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.
16. 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.
17. Respondent is not under the influence of any drugs or alcohol at the time he signs this *Settlement Agreement*.
18. 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.

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: 8/14/12

  
Thomas G. Rousseau, P.A.  
Respondent

Date: 8/14/12

  
Counsel for Respondent

**FOR THE BOARD\***

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

Date: 9/7/2012

  
(Signature)

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

\* Robert P. Cervenka, M.D., Board member, recused.  
Michael Barr, M.D., Board member, recused.