

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

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

Docket No. 12-05

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 P. Dipre, M.D. ("Dr. Dipre" 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 Board of Medicine 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 February 4, 1998. Respondent holds license number 10234. Respondent practices medicine in Laconia, New Hampshire.
3. On or about October 7, 2011, the Board received information from law enforcement agencies that a particular individual, J.S., had been selling prescription medications. J.S. had been receiving multiple prescriptions from Respondent. This matter was referred to the Board to ascertain whether the prescriptions were legitimate. In October of 2011, the Board also received a complaint regarding Respondent's care of patient P.K.

4. In response to this, the Board conducted an investigation and obtained information from various sources pertaining to Respondent's prescribing practices for these individuals.
5. Respondent neither admits nor denies the allegations herein, but stipulates that if a disciplinary hearing were to take place, Hearing Counsel would present evidence upon which the Board could conclude that Respondent engaged in professional misconduct, in violation of RSA 329:17, VI (c); RSA 329:17, VI (d); RSA 329:17, VI (k); Med 501.02 (d); Med 501.02 (e); Med 501.02 (i) (2) (c); Med 501.02 (i) (4); and Principle 5 of the "Clinical Guidelines for the Use of Opioid Therapy in Chronic Noncancer Pain" by the following facts:
 - A. The Board previously disciplined Respondent in an October 22, 2008 Settlement Agreement. The underlying conduct included failure to adequately monitor and document treatment of pain patients being prescribed narcotics. The following cases occurred after Respondent completed the sanctions imposed in the 2008 Settlement Agreement.
 - B. Respondent began treating patient J.S. on July 8, 2011 when she was seen for hypothyroidism, and chronic neck and back pain. Through no fault of the Respondent, no prior records were available for J.S. In response to the patient's pain complaints, Respondent initially prescribed percocet but failed to document this prescription in the record. In his response to the Board, Respondent stated that J.S. had a mild intolerance to acetaminophen, a constituent of percocet. However, he prescribed J.S. percocet again on October 27, 2011, explaining to the Board that it is a medication that is more difficult to make into an injectable form for abuse.

- C. 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 paper medication log.
- D. Between, November 3 and December 16, 2011, Respondent prescribed two additional oxycodone prescriptions for J.S. that were not documented in the treatment record. During this time, Respondent was just beginning to use an electronic medical record.
- E. Respondent failed to document a cause or rationale for prescribing this amount of oxycodone to J.S. over this two-week period. When Respondent learned of J.S.' abuse of the pain medications, he promptly cut her off.
- F. Respondent began treating P.K. in May 2011. At P.K.'s first visit, P.K. had been out of pain prescription for two days and appeared to be withdrawing from the medication. P.K. reported lower back pain, had a history of a herniated disc that appeared to require a repeat surgery. Respondent prescribed and fully documented oxycodone 30 mg (130), methadone 10 mg (180), and xanax 2 mg (60).
- G. In his May 2011 note, Respondent documents that P.K. will follow-up with him in one month. Although P.K. did not return in one month, Respondent continued to prescribe narcotics to this new patient for the next three months. Respondent did not examine or assess P.K. during this time period.
- H. Respondent did not obtain P.K.'s medical records before prescribing narcotics at her first appointment. Respondent continued to prescribe refills over the next three months without first obtaining P.K.'s medical records. Respondent ultimately cut P.K. off from prescription medications.

- I. The Board also reviewed Respondent's care of Patient T.E. Respondent initially saw T.E. prior to 2004 for issues that included, among others, sciatic pain from a motor vehicle accident, fibromyalgia and lupus. T.E. was also morbidly obese, resulting in back and leg pain. At that time, there were concerns – which Respondent did not share – regarding T.E.'s use of narcotics.
 - J. T.E. returned to Respondent's practice in 2008 because her own physician had discontinued prescribing her narcotics and instead sent her to a pain management program.
 - K. Despite this history, Respondent did not require T.E. to enter into a pain contract. The treatment record documents numerous episodes of early and over prescribing of narcotics. When Respondent learned from a pharmacist of suspicions of T.E.'s attempt to fill a pain medicine prescription, and T.E. had no adequate explanation, he immediately cut her off from pain medications.
6. The Board finds that Respondent committed the acts as described above and concludes that, by engaging in such conduct, Respondent violated of RSA 329:17, VI (c); RSA 329:17, VI (d); RSA 329:17, VI (k); Med 501.02 (d); Med 501.02 (e); Med 501.02 (i) (2) (c); Med 501.02 (i) (4); and Principle 5 of the "Clinical Guidelines for the Use of Opioid Therapy in Chronic Noncancer Pain."
 7. Respondent acknowledges that this conduct, if proven, could constitute grounds for the Board to impose disciplinary sanctions against Respondent's license to practice as a physician in the State of New Hampshire.
 8. Respondent consents to the Board imposing the following discipline, pursuant to RSA 329:17, VII:

- A. Respondent is REPRIMANDED.
- B. Respondent's controlled drug prescribing privileges are suspended for three (3) years, starting from the date of issuance of this Settlement Agreement. For the purposes of this agreement, the term "controlled drug" refers to any and all drugs contained in the Federal Controlled Substance Schedule.
- C. Respondent shall meaningfully participate in a global assessment of his ability and skills as a physician conducted by the Center for Personalized Education for Physicians ("CPEP") in Aurora, Colorado, or by Acumen Assessments ("Acumen") in Lawrence, Kansas. Respondent shall complete the assessment no later than May 1, 2013, unless CPEP or Acumen has no availability to complete the assessment within that time period, in which case the assessment shall be completed as soon as the assessor's availability permits.
- D. Respondent shall furnish CPEP or Acumen with a copy of this Settlement Agreement, and all past Settlement Agreements, prior to his assessment.
- E. Respondent shall bear all costs of the global assessment and any evaluation, reporting, further education and/or other measures recommended by the global assessment. He shall at his own expense meaningfully participate in and satisfactorily complete, without interruption, such evaluation, reporting, further education and/or other measures as may be recommended to him by CPEP or Acumen.
- F. Respondent shall sign any and all releases necessary for the Board to make inquiries relating to his participation in the global assessment and his compliance with any recommendations set forth in the global assessment.

- G. Prior to any request to lift the suspension of his prescribing privileges, Respondent shall complete the CPEP or Acumen assessment and comply with all assessment recommendations.
- H. Respondent shall provide the Board with a copy of the global assessment and any other evaluations completed during the assessment within thirty (30) days of the completion of the global assessment.
- I. Respondent shall provide the Board with documentation of his completion of any follow-up recommendations made in the global assessment within thirty (30) days of his completion of any recommended measures.
- J. After eighteen months (18) months the Respondent may request that the Board lift the suspension of controlled drug prescribing privileges upon a showing of the following: that he has successfully completed a CPEP or Acumen assessment; that he has complied with all recommendations made in the assessment.
- K. The Board may consider Respondent's compliance with the terms and conditions herein and Respondent's compliance with the global assessment and any recommendations made therein in any subsequent proceeding before the Board regarding Respondent's license.
- L. 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 or work which requires a medical degree and/or medical license or directly or indirectly involves patient care, and to any state agency or board certification authority which licenses, certifies or credentials physicians, with which Respondent is presently affiliated.


- M. 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 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 state agency or board certification authority that licenses, certifies or credentials physicians, 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 329:17, VI (d), 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 in Paragraphs 5A through 5K. 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: 1/25/2013



Michael P. Dipre, M.D.
Respondent

Date: 1/30/13

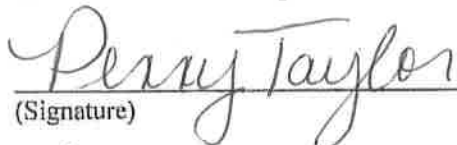


Michael A. Pignatelli, Esq.
Counsel for Respondent

FOR THE BOARD/*

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

Date: 2-8-2013



(Signature)

PENNY TAYLOR

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

/* Robert Cervenka, MD, Board member, recused.

Amy Feitelson, MD, Board member, recused.