

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

In the Matter of:
Brian E. Claussen, M.D.
License No: 10608
(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 Brian E. Claussen, M.D. (“Dr. Claussen” 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 Medical 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 conducting a disciplinary hearing.
2. The Board first granted Respondent a license to practice medicine in the State of New Hampshire on July 7, 1999. Respondent holds license number 10608. At all relevant times, Respondent was practicing Obstetrics and Family Medicine at the Elliot Hospital in Manchester, New Hampshire.
3. In March of 2014, the Board received information indicating that Elliot Hospital had revoked Respondent’s Obstetrical privileges in response to Respondent’s

management of two patients with preeclampsia. In response, the Board conducted an investigation and obtained information from various sources pertaining to the alleged inadequate care provided to these two patients by Respondent.

4. Respondent stipulates that if a disciplinary ~~was~~ hearing was held in this matter, Hearing Counsel would prove that Respondent engaged in professional misconduct, in violation of RSA 329:17, VI (c) and (d), by the following facts:
 - A. In 2013, Respondent provided prenatal care to Patient 1, a 36-year-old female.
 - B. Patient 1 was normotensive during her pregnancy until September 23, 2013, her 29 1/7 week. During a prenatal visit on this date, Patient 1's blood pressure was measured at 142/84, repeat 110/80, with 2+ proteinuria. Patient 1 had gained 11 pounds over two weeks along with facial and pedal edema. At 28 weeks, routine lab work revealed a 133,000 platelet count. Respondent did not order any additional lab work.
 - C. At her October 7, 2013 appointment at 31 1/7 weeks, Patient 1's blood pressure was measured at 148/90, repeat 130/90, with 3+ proteinuria, with facial and pedal edema. Respondent's notes are inconsistent as to whether or not Patient 1 reported having a headache. Respondent did not order any further lab work.
 - D. At her October 21, 2013 appointment at 33 1/7 weeks, Patient 1's blood pressure was measured at 178/102, repeat 130/88, with 3+ proteinuria. Respondent noted "sinus congestion with frontal headache," and facial adema as well as 2+ edema to mid-tibia. He further noted, "No symptoms of pregnancy induced hypertension, will monitor BP []." Respondent did not order any additional lab work.

- E. At her next appointment on November 4, 2013, at 35 1/7 weeks, Patient 1's blood pressure was measured at 154/102, repeat 144/94, with >300 mg/dl proteinuria (3+), a 7 lb weight gain in one week. Patient 1 complained of morning headaches, but not abdominal pain. Patient 1 had unchanged edema. Respondent did not order any additional lab work.
- F. At her prenatal visit on November 11, 2013 appointment, at 36 1/7 weeks, Patient 1's blood pressure was measured at 198/110, repeat 170/100, with 300 mg/dl proteinuria. Patient 1 complained of frequent headaches and had 2-3+ edema in the face and legs and decreased fetal movement for two days. Respondent did not order any additional lab work. Respondent prescribed Aldomet 250mg to Patient 1 instead of a more rapid acting antihypertensive medication to bring her blood pressure down.
- G. An ultrasound on November 11, 2013, indicated a normal low amniotic fluid index, no fetal movement and a low estimated fetal weight. Maternal ascites was identified as well as fetal pleural effusion. Patient 1 was sent to labor and delivery and an obstetrical consultation was obtained by another provider. Patient 1's liver enzymes were measured as elevated (AST = 79 and ALT = 91) and she had a platelet count of 143,000.
- H. Upon presentation at labor and delivery, Patient 1 complained of mild nausea and epigastric pain and her blood pressure was 157/107 with a fetal heart in the 90s-100s (which was later confirmed by ultrasound to be in the 90s). An urgent cesarean section was recommended and performed. The infant was subsequently

transferred to a Boston facility for further management. Patient 1 was treated with magnesium sulfate for seizure prophylaxis.

- I. Around this same time period in 2013, Respondent also provided prenatal care to Patient 2, a 37-year-old female.
- J. Patient 2 was normotensive during the pregnancy until October 11, 2013, 24 2/7 weeks into her pregnancy. Just before her October 11th appointment, Patient 2 called Respondent, reporting a blood pressure at work of 164/120, repeat 148/112. During the appointment, Patient 2's blood pressure was measured at 142/100, repeat 110/80. Respondent did not find any proteinuria, but Patient 2 did complain of headaches. Respondent noted that he did not make any findings for pregnancy induced hypertension and did not obtain any additional lab work other than a urinalysis. He also did not evaluate her deep tendon reflexes.
- K. Patient 2 returned three days later on October 14, 2013, at 24 5/7 weeks, for a blood pressure check. Her blood pressure was measured at 128/90, repeat 132/90, repeat left side lying 108/72. Patient 2 complained of a dull, occipital headache. Patient 2 was not seen by Respondent during this visit, but the records indicate that he reviewed her blood pressure results. Patient 2 was asked to check her blood pressure twice a day until her next appointment in four weeks.
- L. Routine lab work obtained on November 4, 2013 revealed a platelet count of 269,000 and H/H level of 12.2/36.0. An ultrasound from November 5, 2013, revealed appropriate interval growth.

- M. At Patient 2's appointment on November 12, 2013 at 28 6/7 weeks, her blood pressure was measured at 140/100 with trace proteinuria. Respondent did not order any additional lab work or evaluate her deep tendon reflexes.
- N. At her next appointment, on November 26, 2013 at 30 6/7 weeks, Patient 2's blood pressure was measured at 182/110, repeat 170/110, with 3+ proteinuria. Patient 2 complained of continued headaches as well as right upper quadrant pain the previous day. At this point, Patient 2 was referred to labor and delivery for an Obstetrical consultation for pre-eclampsia/HELLP Syndrome management. Upon admission, her blood pressure was 170/110. Her platelet count was decreased to 118,000, with elevated liver enzymes (ALT = 115 and AST = 112), and H/H at 14.3/40.2.
- O. Patient 2 was treated with corticosteroids for fetal lung maturity as well as magnesium sulfate for seizure prophylaxis and nifedipine and labetalol for hypertension. Repeat labs after six hours had revealed an increase in her liver enzymes and a decrease in her platelet count. The consulting physician recommended a cesarean section, which was performed.
- P. On March 13, 2014, the Elliot Hospital revoked Respondent's Obstetrical privileges due to a breach of the standard of care for two patients (Patients 1 and 2) with preeclampsia. In his response filed with the Board, Respondent accepted full responsibility for his failure to adequately evaluate and manage Patients 1 and 2.

- Q. Respondent did not recognize in a timely fashion that both Patients 1 and 2 were becoming hypertensive, eventually progressing to severe preeclampsia/HELLP Syndrome. Development of severe preeclampsia/HELLP Syndrome placed these patients and their infants at an increased risk for life-threatening events. At no time did Respondent even obtain appropriate lab testing that would have helped in the diagnosis.
5. The Board finds that Respondent committed the acts as described above and concludes that, by engaging in such conduct, Respondent was grossly and repeatedly negligent and displayed medical practice incompatible with the basic knowledge and competence expected of persons practicing Obstetrics in violation of RSA 329:17, VI (c) and (d).
6. Respondent acknowledges that this conduct constitutes grounds for the Board to impose disciplinary sanctions against his license to practice as a physician in the State of New Hampshire, and Respondent consents to the Board imposing the following discipline under RSA 329:17, VII:
- A. Respondent is Reprimanded.
- B. Respondent is assessed an Administrative Fine in the amount of \$2,000.
- Respondent shall pay this fine in full within thirty (30) days of the effective date of this *Settlement Agreement*, as defined further below, by delivering a money order or bank check, made payable to "Treasurer, State of New Hampshire," to the Board's office at 121 South Fruit Street, Concord, New Hampshire 03301.

C. Effective three (3) days following the effective date of this *Settlement Agreement*,

Respondent must discontinue the practice of Obstetrics and shall not take part in

any ~~OB-GYN~~ ^{obstetric} cases. ^(p)

D. Respondent is required to meaningfully participate in twelve (12) hours of

Continuing Medical Education (“CME”) focused on diagnosis and management of

hypertensive disorders of pregnancy. These hours shall be in addition to the hours

required by the Board for renewal of licensure and shall be completed within nine

(9) months 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.

7. The Board may consider Respondent’s compliance with the terms and conditions herein in any subsequent proceeding before the Board regarding the Respondent’s license.

8. 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 agency or authority which licenses, certifies or credentials physicians, with which Respondent is presently affiliated.

9. 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 the 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 agency or authority that licenses, certifies or credentials physicians, to which the Respondent may apply for any such professional privileges or recognition.

10. 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.
11. 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 in support of future discipline 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.
12. This *Settlement Agreement* shall become a permanent part of Respondent's file, which is maintained by the Board as a public document.
13. 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.
14. 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.

15. 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.
16. 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 *Settlement Agreement*.
17. 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 claim 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, in the event this *Settlement Agreement* is not accepted by the Board.
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 seek judicial review of a final Board decision. 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: 12/22/14

Brian E Claussen MD
Brian E. Claussen, M.D.
Respondent

FOR THE BOARD/*

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

Date: 2/6/2015

Penny Taylor
(Signature)

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

/*Recused Board Members not participating:

Louis Rosenthal, M.D.

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