

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

In the Matter of:
Arnold D. Scheller, Jr., M.D.
No.: 8835
(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 Arnold D. Scheller, Jr., M.D. (“Dr. Scheller” 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 commencing a disciplinary hearing.
2. The Board first granted Respondent a license to practice medicine in the State of New Hampshire on October 7, 1992. Respondent holds license number 8835. Respondent practices orthopedic medicine in Waltham, MA.
3. On or about December 10, 2013, the Board received a complaint from Speare Memorial Hospital’s Chief Medical Officer, dated December 6, 2013, stating that Dr. Scheller had not notified Speare Memorial Hospital of his Settlement Agreement with

the Board, effective November 12, 2013, regarding a prior reprimand for acting as Medical Director for an RN in Stratham, NH (hereinafter the "2013 Agreement"). Per the terms of the 2013 Agreement, Respondent was obligated to notify and provide a copy of said Agreement to, "any current employer..." within ten days of its effective date.

4. In response to this, the Board conducted an investigation and obtained information from various sources pertaining to Respondent's lack of notification and/or submittal.
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 329:17, VI; and Med 501.02, by the following facts:
 - A. On or about October 8, 2013, Respondent agreed to the terms of the 2013 Agreement, as evidenced by his signature.
 - B. On or about November 12, 2013, the Board accepted the terms of the 2013 Agreement, as evidenced by the signature of the Board's authorized representative, Penny Taylor, making November 12, 2013 the 2013 Agreement's "effective date".
 - C. The 2013 Agreement required Respondent to "furnish a copy of the Settlement Agreement to any current employer..." within ten (10) days of the effective date of said Agreement.
 - D. Respondent did not furnish a copy of the 2013 Agreement to Spear Memorial Hospital on or before November 22, 2013.

- E. On June 30, 2014, Respondent allowed his New Hampshire license to practice medicine lapse. Respondent no longer practices in New Hampshire.
6. The Board finds that Respondent failed to comply with the requirements described above and concludes that, by doing so, Respondent violated RSA 329:17, VI (d).
7. Respondent acknowledges that this failure constitutes 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 assessed an ADMINISTRATIVE FINE in the amount of \$250.00 (two hundred and fifty dollars and 00/100). 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
- B. Within ten (10) days of the effective date of this agreement, as defined further below, Respondent shall furnish a copy of the instant *Settlement Agreement* to Pro Sport Orthopedics, Boston Out-Patient Surgical Suites, LLC, and New England Baptist Hospital.
- C. For a continuing period of one (1) year from the effective date of this agreement, Respondent shall furnish a copy of the instant *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 agency or authority that licenses, certifies or credentials physicians, to which Respondent may apply for any such professional privileges or recognition.

- D. Respondent shall provide the Board with proof of compliance with sections B and C of this paragraph 8 within fifteen (15) days of such compliance by furnishing the Board with a complete copy of all materials provided to any and all such employers as described above.
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. However, the Board may consider this misconduct as evidence of repeated 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: 15 April 15

AD Scheller
Arnold D. Scheller, Jr., M.D.
Respondent

FOR THE BOARD/*

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

Date: May 11, 2015

Penny Taylor
(Signature)

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

/* Lou Rosenthal Board members, recused.
M.D.,