

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

In the Matter of:
Christopher S. Manfred, MD
License No.: 15036
(Adjudicatory Proceedings)

Docket No. 16-11

**ORDER OF EMERGENCY LICENSE SUSPENSION
AND NOTICE OF HEARING**

1. RSA 329:18-b; RSA 541-A:30, III, and New Hampshire Board of Medicine Administrative Rule (“Med”) 409.01 authorize the New Hampshire Board of Medicine (“Board”) to suspend a license to practice medicine for no more than one hundred twenty (120) days pending completion of an adjudicatory proceeding, in cases involving imminent danger to life or health. In such cases, the Board must commence a hearing not later than 10 days after the date of the emergency order. If the Board does not commence the hearing within 10 days, the suspension order shall be automatically vacated. *See*, RSA 541-A:30, III. The Board may not continue such a hearing without the consent of the licensee to the continuation of the emergency suspension. *See*, RSA 329:18-b and Med 409.01. Postponement of the proceeding is prohibited unless the licensee agrees to continue the suspension pending issuance of the Board’s final decision. *See*, RSA 329:18-b and Med 409.01.

2. Christopher Manfred, MD (“Dr. Manfred” or “Respondent”), holds an active license, No. 15036, issued on October 6, 2010, to practice medicine in the State of New Hampshire. Respondent practices medicine as an anesthesiologist at Dartmouth Hitchcock Medical Center in Lebanon, New Hampshire.

3. The Board has received information indicating that the continued practice of medicine by Dr. Manfred poses an imminent threat to life, safety and/or health, which warrants the temporary suspension of Dr. Manfred's license to practice medicine pending a hearing on whether permanent and/or temporary disciplinary sanctions should be imposed. An investigation was conducted and a Report of Investigation was provided to the Board.

4. In support of this *Order of Emergency License Suspension and Notice of Hearing*, the Board alleges the following facts:

A. On January 25, 2017, a Compliance Inspector with the NH Board of Pharmacy ("Pharmacy Board"), made this Board's investigator aware of a correspondence dated January 24, 2017, from Marva-Williams-Lowe, R.Ph., who is the Pharmacist-in-Charge ("PIC"), at Dartmouth-Hitchcock Medical Center ("Dartmouth-Hitchcock") in Lebanon. A review of the documentation indicated that Dartmouth-Hitchcock was reporting Controlled Drug Losses to the NH Board of Pharmacy as required by Ph 703.03.

B. The documentation submitted to the Pharmacy Board indicated that a routine audit conducted by Dartmouth-Hitchcock revealed a "statistically higher utilization of hydromorphone" by one particular physician, compared to other providers. The report stated that patient chart documentation was reviewed by the Department of Anesthesiology providers, which resulted in a finding that although no doses were missing from the documentation, there were some

discrepancies noted between the time of administration of medication as documented in the medical record and removal from the automatic dispensing machine.

- C. The report to the Pharmacy Board went on to note that on January 23, 2017, the physician who Dartmouth-Hitchcock identified in the audit admitted to diverting “a few” vials of hydromorphone 2mg/ml from the operating room for his personal use at home and falsifying medical records to indicate the medications were administered to patients.
- D. The report to the Pharmacy Board indicated that a total of 166 vials of hydromorphone 2mg/ml were removed by this physician from the ADM between September of 2006 and January 11, 2017. Dartmouth-Hitchcock indicated is belief that some or all of these medications were diverted by this physician based on information obtained by Dartmouth-Hitchcock as of January 24, 2017.
- E. In an emailed letter dated January 26, 2017, Dartmouth-Hitchcock notified this Board (the Board of Medicine) of the same information that had been provided to the Pharmacy Board (as described above in paragraphs 4A-D), with the addition of identifying Respondent as the physician who admitted to diverting hydromorphone for his personal use and falsifying medical records.
- F. The report to this Board explained that Respondent is on a leave of absence and has no patient care responsibilities. Additionally, his

access to Dartmouth-Hitchcock's automated dispensing machines has been suspended and he has no access to Dartmouth-Hitchcock's electronic health record system at this time.

5. Based upon the above information, the Board finds that this case involves imminent danger to life and/or health. Further, the Board believes there is a reasonable basis for both immediately suspending Respondent's license on a temporary basis, and for commencing an expedited disciplinary proceeding against Respondent pursuant to RSA 329:18-b, 541-A:30, III, and Med 409.01.

6. The purpose of this proceeding will be to determine whether Respondent has engaged in professional misconduct contrary to RSA 329:17, VI and RSA 329:18-b, which warrants the continued imposition of a temporary license suspension, the imposition of permanent disciplinary sanctions, or both. The specific issues to be determined in this proceeding are:

- A. Whether Respondent committed professional misconduct by diverting hydromorphone, a controlled substance, from his employer hospital for his personal use, in violation of RSA 329:17, VI (d); and/or
- B. Whether Respondent committed professional misconduct by using drugs, in violation of RSA 329:17, VI (b); and/or
- C. Whether Respondent committed professional misconduct by falsifying medical records to indicate that diverted medications had been given to patients, in violation of RSA 329:17, VI (d), (i) and (k); and/or

D. If any of the above allegations are proven, whether and to what extent, Respondent should be subjected to one or more of the disciplinary sanctions authorized by RSA 329:17, VII.

7. While RSA 329:18-a requires that the Board furnish Respondent at least 15 days' notice of allegations of professional misconduct and the date, time and place of an adjudicatory hearing, RSA 541-A:30, III and Med 409.01 require the Board to commence an adjudicatory hearing within ten (10) days after the date of an immediate, temporary license suspension order.

8. The Board intends to complete this adjudicative proceeding within the one hundred twenty (120) day time period provided by RSA 329:18-b and Med 409.01. Accordingly, neither the date of the initial evidentiary hearing nor the date for concluding this proceeding shall be postponed or extended unless Respondent agrees to continue the suspension period pending issuance of the Board's final decision in this matter. *See* RSA 329:18-b, 541-A:30, III, and Med 409.01.

THEREFORE, IT IS ORDERED that Respondent's New Hampshire license to practice medicine is immediately suspended until further order of the Board; and,

IT IS FURTHER ORDERED that an adjudicatory proceeding be commenced for the purpose of resolving the issues articulated above pursuant to RSA 329:17; 329:18-a; 329:18-b; 541-A:30, III; and Med 409.01. To the extent that this order or the Board's rules do not address an issue of procedure, the Board shall apply the New Hampshire Department of Justice Rules, Part 800; and,

IT IS FURTHER ORDERED that Christopher Manfred, MD shall appear before the Board on Wednesday, February 1, 2017 at 1:00 p.m., at the Board's office located at 121 South Fruit Street, Concord, N.H., to participate in an adjudicatory hearing and, if deemed appropriate, be subject to disciplinary sanctions pursuant to RSA 329:17, VII; and,

IT IS FURTHER ORDERED that if Respondent elects to be represented by counsel, at Respondent's own expense, said counsel shall file a notice of appearance at the earliest date possible; and,

IT IS FURTHER ORDERED that Respondent's failure to appear at the time and place specified above may result in the hearing being held *in absentia*, or the imposition of disciplinary sanctions without further notice or an opportunity to be heard, or both; and,

IT IS FURTHER ORDERED that Matthew G. Mavrogeorge, 33 Capitol Street, Concord, N.H., 03301 is appointed to act as Hearing Counsel in this matter with all the authority within the scope of RSA Chapter 329 to represent the public interest. Hearing Counsel shall have the status of a party to this proceeding; and,

IT IS FURTHER ORDERED that Daniel Potenza, MD, Board Member, or any other person whom the Board may designate, shall act as presiding officer in this proceeding; and,

IT IS FURTHER ORDERED that any proposed exhibits, motions or other documents intended to become part of the record in this proceeding, be filed by the proponent with the Board, in the form of an original and eleven (11) copies, and with an additional copy mailed to any party to the proceeding, and to Lynmarie Cusack, Counsel to the Board, N.H. Department of Justice, 33 Capitol Street, Concord, New Hampshire 03301. All responses or objections to such motions or other documents are to be filed in similar fashion within three

(3) days of receipt of such motion or other document unless otherwise ordered by the Board;
and,

IT IS FURTHER ORDERED that a witness and exhibit list and any proposed exhibits, pre-marked for identification only, shall be filed with the Board no later than five (5) days before the date of the hearing. Respondent shall pre-mark his exhibits with capital letters, and Hearing Counsel shall pre-mark her exhibits with Arabic numerals; and,

IT IS FURTHER ORDERED that unless good cause exists, all motions, including motions seeking to postpone the hearing, shall be filed at least five (5) days before the date of the hearing, which would be affected by the requested relief. Respondent may be allowed additional time to prepare for the hearing, but, per RSA 329:18-b, any additional time for preparation shall result in an extension of license suspension commensurate with the additional time extended; and,

IT IS FURTHER ORDERED that the entirety of all oral proceedings be recorded verbatim by the Board. Upon the request of any party made at least five (5) days prior to the proceeding or conference or upon the Board's own initiative, a shorthand court reporter shall be provided at the hearing or conference and such record shall be transcribed by the Board if the requesting party or agency shall pay all reasonable costs for such transcription; and,

IT IS FURTHER ORDERED that all documents shall be filed with the Board by mailing or delivering them to Penny Taylor, Administrator, N.H. Board of Medicine, 121 South Fruit Street, Suite 301, Concord, N.H., 03301-2412; and

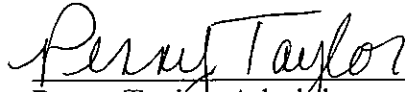
IT IS FURTHER ORDERED that routine procedural inquiries may be made by contacting Penny Taylor, Administrator, N.H. Board of Medicine, at (603) 271-1205, but that

all other communications with the Board shall be in writing and filed as provided above. *Ex parte* communications are forbidden by statute and the Board's regulations; and,

IT IS FURTHER ORDERED that a copy of this Notice of Hearing shall be served upon Respondent by certified mail addressed to the address he supplied to the Board in his latest renewal application. *See*, RSA 329:18, VI, Med. 409.01 (c) and RSA 329:16 (f). A copy shall also be delivered to Hearing Counsel.

BY ORDER OF THE BOARD/*

Dated: January 30, 2017



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

/* Recused Board Members(s):

Emily Baker, M.D. and Gilbert J. Fanciullo, M.D.