

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

In the Matter of:
Jayakumar Patil, MD
No.: 7955
(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 Jayakumar Patil, MD (“Dr. Patil” 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 August 10, 1988. Respondent holds license number 7955. Respondent practices psychiatry in Bedford, New Hampshire.
3. On May 23, 2016, the Board received a complaint from a patient alleging that Respondent had overmedicated her and provided her with inadequate treatment.
4. In response to this, the Board conducted an investigation and obtained information from various sources pertaining to Respondent’s alleged conduct.

5. Respondent stipulates that if a disciplinary hearing were to take place, Hearing Counsel would present evidence to seek to prove that Respondent engaged in professional misconduct, in violation of RSA 329:17, VI, by the following facts:
- A. Patient treated with Respondent from March 2001 until January 2013.
 - B. Respondent's records for Patient were inadequate throughout her treatment in that they lacked essential data expected in an initial evaluation and subsequent assessments. There is no evidence that Respondent conducted consistent assessments with organized reviews of the Patient's mental status to clarify the role of specific DSM diagnoses.
 - C. Respondent failed to document that Patient had a history of trauma and there is no evidence that Respondent considered the impact of the trauma in providing treatment. Instead, Respondent recommended a course of treatment that was contraindicated and dangerous.
 - D. Respondent provided prescription medications without reference points for determining whether the most effective and safest medication was being prescribed. Respondent failed to document discussions of risks and benefits, alternative treatments, specific adverse effects of medications, or the potentially severe impact of a discontinuation syndrome. Frequent medication changes were made without any explanation.
 - E. Diazepam and clonazepam were prescribed simultaneously without explanation. Clonazepam was also continued despite the Patient reporting intermittent alcohol abuse.

- F. Zolpidem was prescribed even though the Patient had a history of sleepwalking and intermittent alcohol abuse.
- G. Lithium was prescribed without prior laboratory testing or laboratory testing to confirm the dosage. Lithium was also prescribed at the same time three different neuroleptics were started and stopped with no documented rationale.
- H. There is no indication that Respondent coordinated any care with Patient's PCP or other therapists. Respondent never documented any conversations with other providers and there is no indication any records were ever requested or reviewed.
- I. Respondent abruptly stopped treating Patient without presenting reasonable notice of his intent to terminate care, without making any recommendations for continuing treatment needs or assisting Patient in finding alternative providers, and without offering to provide records to new providers. Respondent also failed to discuss cessation of Patient's medications or formulate a plan for Patient's continued prescribing needs.
- J. Respondent had received a letter of concern from the Board dated July 1, 2015, warning Respondent that his records were inadequate and that his records needed significant improvement with respect to obtaining accurate histories, documenting communications and substantiating diagnoses.
- K. A sample of Respondent's current records was obtained for review. The following deficiencies were observed in the sample of records:

- 1) Standard DSM diagnostic criteria were not used when establishing diagnoses to be treated.
 - 2) Differential diagnoses were not addressed.
 - 3) Medications were prescribed without any obvious assessment of their effects and were changed without a documented rationale.
 - 4) Laboratory studies indicated prior to starting a medication or as a monitoring parameter during a trial were not done.
 - 5) Medication trials were not carried out at the appropriate dose and/or for sufficient duration.
 - 6) There were no efforts to coordinate care with concurrent providers or obtain past treatment records.
 - 7) Structured electronic medical record templates were not accurately used so that the course of treatment and/or changing diagnoses could be followed.
 - 8) Consents to medication trials were insufficient.
6. The Board finds that Respondent committed the acts as described above and concludes that, by engaging in such conduct, Respondent violated RSA 329:17, VI (c), (d) and (k).
7. Respondent acknowledges that this conduct 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 reprimanded.
 - B. Respondent has completed 46.5 hours of continuing medical education, consisting of 17 hours on September 23-24, 2017 by completing Professional Boundaries, Inc.'s course "PBI MR-17 Medical Records Course," and 29.5 hours on October 19-22, 2017 by completing Massachusetts General Hospital's "Psychopharmacology 2017." Respondent is required to meaningfully participate in additional Category I continuing medical education in the following areas: 12 hours in the area of assessing and treating Post-Traumatic Stress Disorder, 3 hours in trauma screening, 3 hours in assessing risk of endangerment, 12 hours in assessing and treating Bipolar and Related Disorders, 12 hours in assessing and treating Depressive Disorders, 12 hours in assessing and treating Substance-Related and Addictive Disorders, 12 hours in assessing and treating Attention Deficit/Hyperactivity Disorder, and 12 hours in assessing and treating Sleep-Wake Disorders. These hours shall be in addition to the hours required by the Board for renewal of licensure and shall be completed by December 31, 2018. Within fifteen (15) days of completing these hours, Respondent shall notify the Board and provide written proof of completion.
 - C. Respondent is assessed an administrative fine in the amount of \$10,000. 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.

D. Within 30 days of the effective date of this Settlement Agreement, Respondent shall arrange to undergo a clinical skills assessment that will include, but not be limited to, Respondent’s practice of general psychiatry as well as his recordkeeping practices. Respondent shall choose the Reviewer, but the Reviewer must be approved by the Board.

- 1) Respondent shall provide the Reviewer with copies of this *Settlement Agreement* and the Report of Investigation, along with any other documents requested by the Reviewer.
- 2) The clinical assessment shall include evaluation of Respondent’s clinical knowledge, clinical reasoning, patient care decision-making skills, and should address the issues identified in the Report of Investigation. The clinical assessment shall also include a record review, chart-based discussions, case presentations, and topic based discussions. Following the completion of the clinical assessment, the Reviewer shall write a detailed report outlining the findings of the assessment and include any recommendations for improving Respondent’s practice, including any suggested education.

- 3) Respondent shall complete the assessment and submit a copy of the Reviewer's report to the Board within 120 days of the effective date of the *Settlement Agreement*.
 - 4) Respondent shall follow all recommendations made in the clinical assessment report including any additional education recommendations.
- E. Respondent shall enter into a monitoring agreement with a Monitor approved by the Board for a period of eighteen (18) months. The Monitor shall meet with Respondent monthly to review patient records and discuss clinical treatment. The Monitor shall review Respondent's treatment of patients to determine Respondent's compliance with accepted medical practices and all applicable states and federal laws, regulations, and administrative rules, as well as the American Medical Association's Code of Medical Ethics.
- 1) The Monitor shall provide written reports to the Board and to Respondent every ninety (90) days. The written reports shall:
 - a. Evaluate Respondent's clinical care in the areas identified as needing further education in Reviewer's Report;
 - b. Identify any deficiencies in Respondent's care which reasonably warrant corrective action; and
 - c. Provide an assessment of Respondent's progress in implementing recommendations for his clinical care and recordkeeping practices.

- 2) Respondent shall take any and all corrective actions that are reasonably necessary to correct any and all deficiencies identified in any review by the Monitor. Not later than thirty (30) days after Respondent's receipt of the monitor's report, Respondent shall submit to the Board a detailed written report identifying the steps that have been taken, or are being taken, to correct the deficiencies cited in the Monitor's report, and the dates by which such corrective actions will be completed.
- 3) The Board, in its discretion, may request at any time during the period of monitoring that a different monitor be selected. If the monitor becomes unable to serve or fulfill his/her obligations, Respondent may nominate a different monitor who is acceptable to the Board. In the event that the monitor is unable to complete his/her review or report in a timely fashion due to the monitor's own personal and/or professional commitments, Respondent shall notify the Board in writing of the reasons the monitor is unable to complete his/her review or the report by that date, and the Board, for good cause shown, may extend the deadline for completion of the review and report.
- 4) The terms and provisions of Respondent's monitoring agreement shall be incorporated into this *Settlement Agreement* by reference. Respondent's failure to comply with any monitoring agreement terms shall constitute a violation of the terms of the *Settlement Agreement*. It is the responsibility of Respondent to provide information to the

monitor in a timely and complete manner and to assure that all written reports setting forth findings of the monitor are timely transmitted to the Board every ninety (90) days.

- F. If the Board finds that Respondent has failed to abide by any of the terms of this *Settlement Agreement*, the Board may issue a Notice of Hearing requiring Respondent to show cause why his license should not be suspended for a period of at least 60 days.
- G. Respondent shall bear all costs of evaluation, and reporting required by this *Settlement Agreement*, but he shall be permitted to share such costs with third parties.
- H. 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.
- I. 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 agency or 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. However, 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: 10/17/17



Jayakumar Patil, MD
Respondent

Date: 10/17/17

Kathryn Bradley
Kathryn Bradley, Esq.
Counsel for Respondent

FOR THE BOARD/*

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

Date: 11/3/2017

Penny Taylor
(Signature)

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

/* Board members, recused:

David Conway, MD
Daniel Potenza, MD